

AMENDED IN SENATE APRIL 14, 2011

AMENDED IN SENATE MARCH 21, 2011

**SENATE BILL**

**No. 544**

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**Introduced by Senator Price**

February 17, 2011

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~~An act to add Section 1623 to the Business and Professions Code, relating to dentistry. An act to amend Sections 116, 155, 159.5, 726, 802.1, 803, 803.5, 803.6, 822, 2246, 2960.1, 4982.26, and 4992.33 of, and to add Sections 40, 42, 44, 505, 734, 735, 736, 737, 803.7, 803.8, 857, 1688, 1688.1, 1688.2, 1688.3, 1688.4, 1688.5, 1688.6, 1947.1, 1947.2, 1947.3, 1947.4, 1947.5, 1947.6, 1947.7, 1947.8, 2533.5, 2533.6, 2533.7, 2533.8, 2533.9, 2533.10, 2533.11, 2533.12, 2533.13, 2533.14, 2570.38, 2570.39, 2570.40, 2570.41, 2570.42, 2570.43, 2570.44, 2570.45, 2570.46, 2570.47, 2661.8, 2661.9, 2661.10, 2661.11, 2661.12, 2661.13, 2661.14, 2661.15, 2661.16, 2661.17, 2766, 2766.1, 2766.2, 2766.3, 2766.4, 2766.5, 2766.6, 2766.7, 2766.8, 2879.1, 2879.2, 2879.3, 2879.4, 2879.5, 2879.6, 2879.7, 2879.8, 2879.10, 2969.1, 2969.2, 2969.3, 2969.4, 3112, 3112.1, 3112.2, 3112.3, 3112.4, 3112.5, 3112.6, 3112.7, 3112.8, 3112.9, 3405, 3405.1, 3405.2, 3405.3, 3405.4, 3405.5, 3405.6, 3405.7, 3405.8, 3405.9, 3531.1, 3531.2, 3531.3, 3531.4, 3531.5, 3531.6, 3531.7, 3531.8, 3531.9, 3531.10, 3665, 3665.1, 3665.2, 3665.3, 3665.4, 3665.5, 3665.6, 3665.7, 3665.8, 3665.9, 3769.4, 3769.5, 3769.6, 3769.7, 3769.8, 3769.9, 3769.10, 4316, 4316.1, 4316.2, 4316.3, 4316.4, 4316.5, 4316.6, 4375, 4526, 4526.1, 4526.2, 4526.3, 4526.4, 4526.5, 4526.6, 4526.8, 4526.9, 4888, 4888.1, 4888.2, 4888.3, 4888.4, 4888.5, 4888.6, 4888.7, 4964.1, 4964.2, 4964.3, 4964.4, 4964.55, 4964.6, 4964.7, 4964.8, 4964.9, 4964.10, 4990.44, 4990.45, 4990.46, 4990.47, 4990.48, 4990.49, 4990.50, 4990.51, 4990.52, and 4990.53 to, to add Article 16 (commencing with Section 880) to Chapter 1 of Division 2 of, and to repeal Sections 2608.5 and 2660.5 of, the Business and~~

*Professions Code, and to add section 12529.8 to the Government Code, relating to professions and vocations.*

LEGISLATIVE COUNSEL'S DIGEST

SB 544, as amended, Price. ~~Dental Board of California: collection of fees, fines, and cost recovery.~~ *Professions and vocations: regulatory boards.*

*(1) Existing law provides for the licensure and regulation of profession and vocation licensees by various boards within the Department of Consumer Affairs. Within the department, there are healing arts boards and nonhealing arts boards. The department is under the control of the Director of Consumer Affairs.*

*This bill would require cooperation between state agencies and all boards within the department when investigating a licensee, and would require a state agency to provide to the board all licensee records in the custody of the state agency. The bill would require all local and state law enforcement agencies, state and local governments, state agencies, licensed health care facilities, and any employers of any licensee to provide licensee records to any board within the department upon request by that board, and would make an additional requirement specific to the Department of Justice. By imposing additional duties on local agencies, the bill would impose a state-mandated local program.*

*The bill would prohibit a licensee regulated by a board within the department from including certain provisions in an agreement to settle a civil litigation action arising from his or her practice, as specified.*

*(2) Existing law authorizes the director to audit and review, among other things, inquiries and complaints regarding licensees, dismissals of disciplinary cases, and discipline short of formal accusation by the Medical Board of California and the California Board of Podiatric Medicine.*

*This bill would additionally authorize the director or his or her designee to audit and review the aforementioned activities by any of the healing arts boards.*

*Existing law authorizes the director to employ investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law, the enforcement of which is charged to the department, or to any board in the department. Inspectors used by the boards are not required to be employees of the Division of Investigation, but may be employees of, or under contract to, the boards.*

*This bill would authorize healing arts boards to employ investigators who are not employees of the Division of Investigation, and would authorize those boards to contract for investigative services provided by the Department of Justice. The bill would also establish within the Division of Investigation the Health Quality Enforcement Unit to provide investigative services for healing arts proceedings.*

*The bill would require all healing arts boards within the department to report annually, by October 1, to the department and the Legislature certain information, including, but not limited to, the total number of complaints closed or resolved without discipline, the total number of complaints and reports referred for formal investigation, and the total number of accusations filed and the final disposition of accusations through the board and court review, respectively.*

*The bill would also provide that it is an act of unprofessional conduct for any licensee of a healing arts board to fail to furnish information in a timely manner to the board or the board's investigators, or to fail to cooperate and participate in any disciplinary investigation pending against him or her, except as specified.*

*Existing law requires a physician and surgeon, osteopathic physician and surgeon, and a doctor of podiatric medicine to report to his or her respective board when there is an indictment or information charging a felony against the licensee or he or she has been convicted of a felony or misdemeanor.*

*This bill would expand that requirement to a licensee of any healing arts board, as specified, and would further require a report when disciplinary action is taken against a licensee by another healing arts board or by a healing arts board of another state or an agency of the federal government.*

*Existing law requires the district attorney, city attorney, and other prosecuting agencies to notify the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, and other allied health boards and the court clerk if felony charges have been filed against one of the board's licensees. Existing law also requires, within 10 days after a court judgment, the clerk of the court to report to the appropriate board when a licensee has committed a crime or is liable for any death or personal injury resulting in a specified judgment. Existing law also requires the clerk of the court to transmit to certain boards specified felony preliminary transcript hearings concerning a defendant licensee.*

*The bill would instead make those provisions applicable to all healing arts boards. By imposing additional duties on these local agencies, the bill would impose a state-mandated local program.*

*The bill would require a healing arts board, the State Board of Chiropractic Examiners, and the Osteopathic Medical Board of California to query the federal National Practitioner Data Bank prior to, among other things, granting a license to an applicant who is currently residing in another state or granting a petition for reinstatement of a revoked or surrendered license.*

*This bill would make it a crime to engage in the practice of healing arts without a current and valid license, except as specified; or to fraudulently buy, sell, or obtain a license to practice healing arts. By creating new crimes, the bill would impose a state-mandated local program.*

*(3) Under existing law, healing arts licensees are regulated by various healing arts boards within the department. These boards are authorized to issue, deny, suspend, and revoke licenses based on various grounds and to take disciplinary action against a licensee for the failure to comply with their laws and regulations. Existing law requires or authorizes a board to appoint an executive officer to, among other things, perform duties delegated by the board.*

*This bill would authorize a healing arts board to delegate to its executive officer, where an administrative action has been filed by the board to revoke the license of a licensee and the licensee has failed to file a notice of defense or appear at the hearing, the authority to adopt a proposed default decision. The bill would also authorize a healing arts board to enter into a settlement with a licensee or applicant in lieu of the issuance of an accusation or statement of issues against the licensee or applicant.*

*The bill would also provide that the license of a licensee of a healing arts board shall be suspended if the licensee is incarcerated after the conviction of a felony and would require the board to notify the licensee of the suspension and of his or her right to a specified hearing. The bill would specify that no hearing is required, however, if the conviction was for a violation of federal law or state law for the use of dangerous drugs or controlled substances or specified sex offenses; a violation for the use of dangerous drugs or controlled substances would also constitute unprofessional conduct and a crime, thereby imposing a state-mandated local program.*

*The bill would prohibit the issuance of a healing arts license to any person who is a registered sex offender, and would provide for the revocation of a license upon the conviction of certain sex offenses, as defined. The bill would provide that the commission of, and conviction for, any act of sexual abuse, misconduct, or attempted sexual misconduct, whether or not with a patient, or conviction of a felony requiring registration as a sex offender, be considered a crime substantially related to the qualifications, functions, or duties of a healing arts licensee. The bill would impose requirements on boards with respect to individuals required to register as a sex offender.*

*This bill would authorize the Attorney General and his or her investigative agents and certain healing arts boards to inquire into any alleged violation of the laws under the boards' jurisdiction and to inspect documents subject to specified procedures. The bill would make the licensees of those healing arts boards or a health care facility that fails to comply with a patient's medical record request, as specified, within 15 days, or who fails or refuses to comply with a court order mandating release of records, subject to civil and criminal penalties, as specified. By creating a new crime, the bill would impose a state-mandated local program.*

*The bill would require the employer of certain health care licensees to report to the appropriate board within a specified timeframe information relating to a health care licensee who is suspended or terminated for cause or who resigns. The bill would require a board to investigate these reports, including the inspection and copying of certain documents relating to that suspension, termination, or resignation.*

*The bill would require specified healing arts boards, on or after July 1, 2013, to post on their Internet Web sites specified information in their possession, custody, or control regarding their licensees and their license status, prior discipline, and convictions.*

*The bill would authorize a healing arts board to automatically suspend the license of any licensee who also has an out-of-state license or a license issued by an agency of the federal government that is suspended or revoked, except as specified.*

*(4) The bill would declare the intent of the Legislature that the Bureau of State Audits conduct a specified review of the Pharmacists Recovery Program by January 1, 2013.*

*(5) Existing law establishes in the Department of Justice the Health Quality Enforcement Section, whose primary responsibility is to investigate and prosecute proceedings against licensees and applicants*

*within the jurisdiction of the Medical Board of California and any committee of the board, the California Board of Podiatric Medicine, and the Board of Psychology.*

*This bill would authorize a healing arts board to utilize the services of the Health Quality Enforcement Section or licensing section. If utilized, the bill would require the Attorney General to assign attorneys employed by the office of the Attorney General to work on location at the licensing unit of the Division of Investigation of the Department of Consumer Affairs, as specified.*

*(6) The bill would delete, revise and recast various provisions of the Physical Therapy Practice Act and would make other conforming changes.*

*(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

~~Existing law, the Dental Practice Act, provides for the licensure and regulation of dentists by the Dental Board of California. Existing law establishes specified fees for licenses, permits, and certificates issued by the board. Existing law also sets forth specified fines and penalties for violations of the Dental Practice Act.~~

~~This bill would authorize the board to contract with a collection agency to collect outstanding fees, fines, or cost recovery amounts from persons who owe those moneys to the board, as specified. The bill would require the contract with a collection agency to contain specified safeguards to protect an individual's personal information from unauthorized disclosure and to provide for the liability of the collection agency for the unauthorized use or disclosure of that information.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. This act shall be known and may be cited as the*  
2     *Consumer Health Protection Enforcement Act.*

3     *SEC. 2. (a) The Legislature finds and declares the following:*

4         *(1) In recent years, it has been reported that many of the healing*  
5         *arts boards within the Department of Consumer Affairs take, on*  
6         *average, more than three years to investigate and prosecute*  
7         *violations of law, a timeframe that does not adequately protect*  
8         *consumers.*

9         *(2) The excessive amount of time that it takes healing arts boards*  
10        *to investigate and prosecute licensed professionals who have*  
11        *violated the law has been caused, in part, by legal and procedural*  
12        *impediments to the enforcement programs.*

13        *(3) Both consumers and licensees have an interest in the quick*  
14        *resolution of complaints and disciplinary actions. Consumers need*  
15        *prompt action against licensees who do not comply with*  
16        *professional standards, and licensees have an interest in timely*  
17        *review of consumer complaints to keep the trust of their patients.*

18        *(b) It is the intent of the Legislature that the changes made by*  
19        *this act will improve efficiency and increase accountability within*  
20        *the healing arts boards of the Department of Consumer Affairs,*  
21        *and will remain consistent with the long-held paramount goal of*  
22        *consumer protection.*

23        *(c) It is further the intent of the Legislature that the changes*  
24        *made by this act will provide healing arts boards within the*  
25        *Department of Consumer Affairs with the regulatory tools and*  
26        *authorities necessary to reduce the average timeframe for*  
27        *investigating and prosecuting violations of law by healing arts*  
28        *practitioners to between 12 and 18 months.*

29     *SEC. 3. Section 40 is added to the Business and Professions*  
30     *Code, to read:*

31        *40. (a) Notwithstanding any other provision of law, for*  
32        *purposes of a board investigation, a state agency shall, upon*  
33        *receiving a request in writing from a board for records about a*  
34        *particular licensee, immediately provide to the board all records*  
35        *about a licensee in the custody of the state agency, including, but*  
36        *not limited to, confidential records, medical records, and records*  
37        *related to closed or open investigations.*

1 (b) If a state agency has knowledge that a person it is  
2 investigating is licensed by a board, the state agency shall notify  
3 the board that it is conducting an investigation against one of its  
4 licentiates. The notification of investigation to the board shall  
5 include the name, address, and, if known, the professional license  
6 type and license number of the person being investigated and the  
7 name and address or telephone number of a person who can be  
8 contacted for further information about the investigation. The state  
9 agency shall cooperate with the board in providing any requested  
10 information.

11 (c) A board shall maintain the confidentiality of any personally  
12 identifying information contained in the records maintained  
13 pursuant to this section, and shall not share, sell, or transfer the  
14 information to any third party unless it is otherwise authorized by  
15 federal or state law.

16 SEC. 4. Section 42 is added to the Business and Professions  
17 Code, to read:

18 42. Notwithstanding any other provision of law, all local and  
19 state law enforcement agencies, state and local governments, state  
20 agencies, licensed health care facilities, and employers of a  
21 licensee of a board shall provide records to the board upon request  
22 prior to receiving payment from the board for the cost of providing  
23 the records. These records include, but are not limited to,  
24 confidential records, medical records, and records related to closed  
25 or open investigations.

26 SEC. 5. Section 44 is added to the Business and Professions  
27 Code, to read:

28 44. (a) A licensee of a board shall not include or permit to be  
29 included any of the following provisions in an agreement to settle  
30 a civil litigation action filed by a consumer arising from the  
31 licensee's practice, whether the agreement is made before or after  
32 the filing of an action:

33 (1) A provision that prohibits another party to the dispute from  
34 contacting or cooperating with the board.

35 (2) A provision that prohibits another party to the dispute from  
36 filing a complaint with the board.

37 (3) A provision that requires another party to the dispute to  
38 withdraw a complaint he or she has filed with the board.

39 (b) A provision described in subdivision (a) is void as against  
40 public policy.



1 (c) A violation of this section constitutes unprofessional conduct  
2 and may subject the licensee to disciplinary action.

3 (d) If a board complies with Section 2220.7, that board shall  
4 not be subject to the requirements of this section.

5 SEC. 6. Section 116 of the Business and Professions Code is  
6 amended to read:

7 116. (a) The director or his or her designee may audit and  
8 review, upon his or her own initiative, or upon the request of a  
9 consumer or licensee, inquiries and complaints regarding licensees,  
10 dismissals of disciplinary cases, the opening, conduct, or closure  
11 of investigations, informal conferences, and discipline short of  
12 formal accusation by the Medical Board of California, the allied  
13 health professional boards, and the California Board of Podiatric  
14 Medicine any of the healing arts boards described in Division 2  
15 (commencing with Section 500). The director may make  
16 recommendations for changes to the disciplinary system to the  
17 appropriate board, the Legislature, or both, for their consideration.

18 (b) The director shall report to the Chairpersons of the Senate  
19 Committee on Business and Professions Committee and Economic  
20 Development and the Assembly Committee on Health Committee  
21 annually, commencing March 1, 1995, regarding his or her findings  
22 from any audit, review, or monitoring and evaluation conducted  
23 pursuant to this section.

24 SEC. 7. Section 155 of the Business and Professions Code is  
25 amended to read:

26 155. (a) In accordance with Section 159.5, the director may  
27 employ such investigators, inspectors, and deputies as are necessary  
28 to properly to investigate and prosecute all violations of any law,  
29 the enforcement of which is charged to the department or to any  
30 board, agency, or commission in the department.

31 (b) It is the intent of the Legislature that inspectors used by  
32 boards, bureaus, or commissions in the department shall not be  
33 required to be employees of the Division of Investigation, but may  
34 either be employees of, or under contract to, the boards, bureaus,  
35 or commissions. Contracts for services shall be consistent with  
36 Article 4.5 (commencing with Section 19130) of Chapter 6 of Part  
37 2 of Division 5 of Title 2 of the Government Code. All civil service  
38 employees currently employed as inspectors whose functions are  
39 transferred as a result of this section shall retain their positions,  
40 status, and rights in accordance with Section 19994.10 of the

1 Government Code and the State Civil Service Act (Part 2  
2 (commencing with Section 18500) of Division 5 of Title 2 of the  
3 Government Code).

4 *(c) Investigators used by any healing arts board, as described*  
5 *in Division 2 (commencing with Section 500), shall not be required*  
6 *to be employees of the Division of Investigation and a healing arts*  
7 *board may contract for investigative services provided by the*  
8 *Department of Justice.*

9 ~~(e)~~

10 *(d) Nothing in this section limits the authority of, or prohibits,*  
11 *investigators in the Division of Investigation in the conduct of*  
12 *inspections or investigations of any licensee, or in the conduct of*  
13 *investigations of any officer or employee of a board or the*  
14 *department at the specific request of the director or his or her*  
15 *designee.*

16 *SEC. 8. Section 159.5 of the Business and Professions Code*  
17 *is amended to read:*

18 *159.5. There is in the department the Division of Investigation.*  
19 *The division is in the charge of a person with the title of chief of*  
20 *the division. There is in the division the Health Quality*  
21 *Enforcement Unit. The primary responsibility of the unit is to*  
22 *investigate complaints against licensees and applicants within the*  
23 *jurisdiction of the healing arts boards described in Section 720.*

24 ~~Except as provided in Section 160, investigators who have the~~  
25 ~~authority of peace officers, 16 of Chapter 1394 of the Statutes of~~  
26 ~~1970, all positions for the personnel necessary to provide~~  
27 ~~investigative services, as specified in subdivision (a) of Section~~  
28 ~~160 Section 160 of this code and in subdivision (a) (b) of Section~~  
29 ~~830.3 of the Penal Code, shall be in the division and the personnel~~  
30 ~~shall be appointed by the director.~~

31 *SEC. 9. Section 505 is added to the Business and Professions*  
32 *Code, to read:*

33 *505. (a) Each healing arts board shall report annually to the*  
34 *department and the Legislature, not later than October 1 of each*  
35 *year, the following information:*

36 *(1) The total number of complaints closed or resolved without*  
37 *discipline, prior to accusation.*

38 *(2) The total number of complaints and reports referred for*  
39 *formal investigation.*

1 (3) *The total number of accusations filed and the final*  
2 *disposition of accusations through the board and court review,*  
3 *respectively.*

4 (4) *The total number of citations issued, with fines and without*  
5 *fines, and the number of public letters of reprimand, letters of*  
6 *admonishment, or other similar action issued, if applicable.*

7 (5) *The total number of final licensee disciplinary actions taken,*  
8 *by category.*

9 (6) *The total number of cases in process for more than six*  
10 *months, more than 12 months, more than 18 months, and more*  
11 *than 24 months, from receipt of a complaint by the board.*

12 (7) *The average time in processing complaints, from original*  
13 *receipt of the complaint by the board, for all cases, at each stage*  
14 *of the disciplinary process and court review, respectively.*

15 (8) *The total number of licensees in diversion or on probation*  
16 *for alcohol or drug abuse, and the number of licensees successfully*  
17 *completing diversion programs or probation, and failing to do so,*  
18 *respectively.*

19 (9) *The total number of probation violation reports and*  
20 *probation revocation filings, and their dispositions.*

21 (10) *The total number of petitions for reinstatement, and their*  
22 *dispositions.*

23 (b) *“Action,” for purposes of this section, includes proceedings*  
24 *brought by, or on behalf of, the healing arts board against licensees*  
25 *for unprofessional conduct that have not been finally adjudicated,*  
26 *as well as disciplinary actions taken against licensees.*

27 (c) *A board that complies with Section 2313 shall not be subject*  
28 *to the requirements of this section.*

29 (d) *A report to be submitted pursuant to this section shall be*  
30 *submitted in compliance with Section 9795 of the Government*  
31 *Code.*

32 (e) *This section shall become inoperative on October 1, 2016.*

33 SEC. 10. *Section 726 of the Business and Professions Code is*  
34 *amended to read:*

35 726. (a) *The commission of any act of sexual abuse,*  
36 *misconduct, or relations with a patient, client, or customer*  
37 *constitutes unprofessional conduct and grounds for disciplinary*  
38 *action for any person licensed under this division; and under any*  
39 *initiative act referred to in this division—~~and under Chapter 17~~*  
40 *(commencing with Section 9000) of Division 3.*

(b) For purposes of Division 1.5 (commencing with Section 475), the commission of, and conviction for, any act of sexual abuse, sexual misconduct, or attempted sexual misconduct, whether or not with a patient, or conviction of a felony requiring registration pursuant to Section 290 of the Penal Code, shall be considered a crime substantially related to the qualifications, functions, or duties of a licensee of a healing arts board described in this division.

~~This~~

(c) This section shall not apply to sexual contact between a ~~physician and surgeon~~ licensee and his or her spouse or person in an equivalent domestic relationship when that ~~physician and surgeon~~ licensee provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

SEC. 11. Section 734 is added to the Business and Professions Code, to read:

734. (a) The conviction of a charge of violating any federal statute or regulation or any statute or regulation of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct. The record of the conviction is conclusive evidence of the unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(b) Discipline may be ordered against a licensee in accordance with the laws and regulations of the healing arts board or the board may order the denial of the license when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

SEC. 12. Section 735 is added to the Business and Professions Code, to read:

735. A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

1     *SEC. 13. Section 736 is added to the Business and Professions*  
2     *Code, to read:*

3     736. (a) *The use or prescribing for or administering to himself*  
4     *or herself of any controlled substance; or the use of any of the*  
5     *dangerous drugs specified in Section 4022, or of alcoholic*  
6     *beverages, to the extent or in such a manner as to be dangerous*  
7     *or injurious to the licensee, or to any other person or to the public,*  
8     *or to the extent that the use impairs the ability of the licensee to*  
9     *practice safely; or conviction of any misdemeanor or felony*  
10    *involving the use, consumption, or self-administration of any of*  
11    *the substances referred to in this section, or conviction of any*  
12    *combination thereof, constitutes unprofessional conduct. The*  
13    *record of the conviction is conclusive evidence of the*  
14    *unprofessional conduct.*

15    (b) *A plea or verdict of guilty or a conviction following a plea*  
16    *of nolo contendere is deemed to be a conviction within the meaning*  
17    *of this section. Discipline may be ordered against a licensee in*  
18    *accordance with the laws and regulations of the healing arts board*  
19    *or the board may order the denial of the license when the time for*  
20    *appeal has elapsed or the judgment of conviction has been affirmed*  
21    *on appeal or when an order granting probation is made suspending*  
22    *imposition of sentence, irrespective of a subsequent order under*  
23    *the provisions of Section 1203.4 of the Penal Code allowing that*  
24    *person to withdraw his or her plea of guilty and to enter a plea of*  
25    *not guilty, or setting aside the verdict of guilty, or dismissing the*  
26    *accusation, complaint, information, or indictment.*

27    (c) *A violation of subdivision (a) is a misdemeanor, and upon*  
28    *conviction shall be punished by a fine of up to ten thousand dollars*  
29    *(\$10,000), or by imprisonment in the county jail of up to six*  
30    *months, or by both that fine and imprisonment.*

31    *SEC. 14. Section 737 is added to the Business and Professions*  
32    *Code, to read:*

33    737. *It shall be unprofessional conduct for any licensee of a*  
34    *healing arts board to fail to comply with the following:*

35    (a) *Furnish information in a timely manner to the healing arts*  
36    *board or the board's investigators or representatives if requested*  
37    *by the board.*

38    (b) *Cooperate and participate in any investigation or other*  
39    *regulatory or disciplinary proceeding pending against the licensee.*  
40    *However, this subdivision shall not be construed to deprive a*

1 *licensee of any privilege guaranteed by the Fifth Amendment to*  
2 *the Constitution of the United States, or any other constitutional*  
3 *or statutory privileges. This subdivision shall not be construed to*  
4 *require a licensee to cooperate with a request that requires him*  
5 *or her to waive any constitutional or statutory privilege or to*  
6 *comply with a request for information or other matters within an*  
7 *unreasonable period of time in light of the time constraints of the*  
8 *licensee's practice. Any exercise by a licensee of any constitutional*  
9 *or statutory privilege shall not be used against the licensee in a*  
10 *regulatory or disciplinary proceeding against the licensee.*

11 *SEC. 15. Section 802.1 of the Business and Professions Code*  
12 *is amended to read:*

13 *802.1. (a) (1) A ~~physician and surgeon, osteopathic physician~~*  
14 *~~and surgeon, and a doctor of podiatric medicine shall report either~~*  
15 *~~licensee of a healing arts board described in this division shall~~*  
16 *~~report any of the following to the entity that issued his or her~~*  
17 *~~license:~~*

18 *(A) The bringing of an indictment or information charging a*  
19 *felony against the licensee.*

20 *(B) The conviction of the licensee, including any verdict of*  
21 *guilty, or plea of guilty or no contest, of any felony or*  
22 *misdemeanor.*

23 *(C) Any disciplinary action taken by another licensing entity or*  
24 *authority of this state or of another state or an agency of the federal*  
25 *government.*

26 *(2) The report required by this subdivision shall be made in*  
27 *writing within 30 days of the date of the bringing of the indictment*  
28 *~~or information or of the conviction the charging of a felony, or of~~*  
29 *~~the arrest, conviction, or disciplinary action.~~*

30 *(b) Failure to make a report required by this section shall be a*  
31 *public offense punishable by a fine not to exceed five thousand*  
32 *dollars (\$5,000) and shall constitute unprofessional conduct.*

33 *SEC. 16. Section 803 of the Business and Professions Code is*  
34 *amended to read:*

35 *803. (a) Except as provided in subdivision (b), within 10 days*  
36 *after a judgment by a court of this state that a person who holds a*  
37 *license, certificate, or other similar authority from the Board of*  
38 *~~Behavioral Sciences or from an agency mentioned in subdivision~~*  
39 *~~(a) of Section 800 (except a person licensed pursuant to Chapter~~*  
40 *~~3 (commencing with Section 1200)) a healing arts board described~~*

1 *in this division*, has committed a crime, or is liable for any death  
2 or personal injury resulting in a judgment for an amount in excess  
3 of thirty thousand dollars (\$30,000) caused by his or her  
4 negligence, error or omission in practice, or his or her rendering  
5 unauthorized professional services, the clerk of the court that  
6 rendered the judgment shall report that fact to the agency that  
7 issued the license, certificate, or other similar authority.

8 (b) For purposes of a physician and surgeon, osteopathic  
9 physician and surgeon, or doctor of podiatric medicine, who is  
10 liable for any death or personal injury resulting in a judgment of  
11 any amount caused by his or her negligence, error or omission in  
12 practice, or his or her rendering unauthorized professional services,  
13 the clerk of the court that rendered the judgment shall report that  
14 fact to the ~~agency~~ *board* that issued the license.

15 *SEC. 17. Section 803.5 of the Business and Professions Code*  
16 *is amended to read:*

17 803.5. (a) The district attorney, city attorney, or other  
18 prosecuting agency shall notify the ~~Medical Board of California,~~  
19 ~~the Osteopathic Medical Board of California, the California Board~~  
20 ~~of Podiatric Medicine, the State Board of Chiropractic Examiners,~~  
21 ~~or other appropriate allied health board,~~ *appropriate healing arts*  
22 *board described in this division* and the clerk of the court in which  
23 the charges have been filed, of any filings against a licensee of  
24 that board charging a felony immediately upon obtaining  
25 information that the defendant is a licensee of the board. The notice  
26 shall identify the licensee and describe the crimes charged and the  
27 facts alleged. The prosecuting agency shall also notify the clerk  
28 of the court in which the action is pending that the defendant is a  
29 licensee, and the clerk shall record prominently in the file that the  
30 defendant holds a license from one of the boards described above.

31 (b) The clerk of the court in which a licensee of one of the  
32 boards is convicted of a crime shall, within 48 hours after the  
33 conviction, transmit a certified copy of the record of conviction  
34 to the applicable board.

35 *SEC. 18. Section 803.6 of the Business and Professions Code*  
36 *is amended to read:*

37 803.6. (a) The clerk of the court shall transmit any felony  
38 preliminary hearing transcript concerning a defendant licensee to  
39 the ~~Medical Board of California, the Osteopathic Medical Board~~  
40 ~~of California, the California Board of Podiatric Medicine, or other~~

1 ~~appropriate allied health board, as applicable, appropriate healing~~  
2 ~~arts board described in this division~~ where the total length of the  
3 transcript is under 800 pages and shall notify the appropriate board  
4 of any proceeding where the transcript exceeds that length.

5 (b) In any case where a probation report on a licensee is prepared  
6 for a court pursuant to Section 1203 of the Penal Code, a copy of  
7 that report shall be transmitted by the probation officer to the  
8 *appropriate healing arts board*.

9 *SEC. 19. Section 803.7 is added to the Business and Professions*  
10 *Code, to read:*

11 *803.7. The Department of Justice shall ensure that subsequent*  
12 *reports and subsequent disposition information authorized to be*  
13 *issued to any board identified in Section 101 are submitted to that*  
14 *board within 30 days from notification of subsequent arrests,*  
15 *convictions, or other updates.*

16 *SEC. 20. Section 803.8 is added to the Business and Professions*  
17 *Code, to read:*

18 *803.8. (a) The office of the Attorney General shall serve, or*  
19 *submit to a healing arts board for service, an accusation within*  
20 *60 calendar days of receipt from the healing arts board.*

21 *(b) The office of the Attorney General shall serve, or submit to*  
22 *a healing arts board for service, a default decision within five days*  
23 *following the time period allowed for the filing of a notice of*  
24 *defense.*

25 *(c) The office of the Attorney General shall set a hearing date*  
26 *within three days of receiving a notice of defense, unless the*  
27 *healing arts board gives the office of the Attorney General*  
28 *instruction otherwise.*

29 *SEC. 21. Section 822 of the Business and Professions Code is*  
30 *amended to read:*

31 *822. If a licensing agency determines that its licensee's ability*  
32 *to practice his or her profession safely is impaired because the*  
33 *licensee is mentally ill, or physically ill affecting competency,*  
34 *the licensing agency may take action by any one of the following*  
35 *methods:*

36 (a) Revoking the licensee's certificate or license.

37 (b) Suspending the licensee's right to practice.

38 (c) Placing the licensee on probation.



1 (d) Taking such other action in relation to the licentiate as the  
2 licensing agency in its discretion deems proper, *including issuing*  
3 *a limited or restricted license.*

4 The licensing agency shall not reinstate a revoked or suspended  
5 certificate or license *or lift any restrictions or limitations* until it  
6 has received competent evidence of the absence or control of the  
7 condition which caused its action and until it is satisfied that with  
8 due regard for the public health and safety the person's right to  
9 practice his or her profession may be safely reinstated.

10 SEC. 22. *Section 857 is added to the Business and Professions*  
11 *Code, to read:*

12 857. (a) *Each healing arts board, the State Board of*  
13 *Chiropractic Examiners, and the Osteopathic Medical Board of*  
14 *California shall query the federal National Practitioner Data Bank*  
15 *prior to any of the following:*

16 (1) *Granting a license to an applicant who is currently residing*  
17 *in another state.*

18 (2) *Granting a license to an applicant who is currently or has*  
19 *ever been licensed as a health care practitioner in California or*  
20 *another state.*

21 (3) *Granting a petition for reinstatement of a revoked or*  
22 *surrendered license.*

23 (b) *Notwithstanding subdivision (a), a healing arts board, the*  
24 *State Board of Chiropractic Examiners, and the Osteopathic*  
25 *Medical Board of California may query the federal National*  
26 *Practitioner Data Bank prior to issuing any license.*

27 (c) *A healing arts board shall charge a fee to cover the actual*  
28 *cost to conduct the queries described in this section.*

29 SEC. 23. *Article 16 (commencing with Section 880) is added*  
30 *to Chapter 1 of Division 2 of the Business and Professions Code,*  
31 *to read:*

32  
33 *Article 16. Unlicensed Practice*  
34

35 880. (a) (1) *It is a public offense, punishable by a fine not to*  
36 *exceed one hundred thousand dollars (\$100,000), by imprisonment*  
37 *in a county jail not to exceed one year, or by both that fine and*  
38 *imprisonment, for:*

1 (A) Any person who does not hold a current and valid license  
2 to practice a healing art under this division to engage in that  
3 practice.

4 (B) Any person who fraudulently buys, sells, or obtains a license  
5 to practice any healing art in this division or to violate any  
6 provision of this division.

7 (2) Subparagraph (A) of paragraph (1) shall not apply to any  
8 person who is already being charged with a crime under the  
9 specific healing arts licensing provisions for which he or she  
10 engaged in unauthorized practice.

11 (b) Notwithstanding any other provision of law, any person who  
12 is licensed under this division, and who supervises the practice of  
13 a healing art by any person who does not hold a current and valid  
14 license to practice that healing art under this division, is guilty of  
15 a public crime, punishable by a fine not to exceed one hundred  
16 thousand dollars (\$100,000), by imprisonment in a county jail not  
17 to exceed one year, or by both that fine and imprisonment.

18 SEC. 24. Section 1688 is added to the Business and Professions  
19 Code, to read:

20 1688. (a) The board may delegate to its executive officer the  
21 authority to adopt a proposed default decision where an  
22 administrative action to revoke a license has been filed and the  
23 licensee has failed to file a notice of defense or to appear at the  
24 hearing and a proposed default decision revoking the license has  
25 been issued.

26 (b) The board may delegate to its executive officer the authority  
27 to adopt a proposed settlement agreement where an administrative  
28 action to revoke a license has been filed by the board and the  
29 licensee has agreed to the revocation or surrender of his or her  
30 license.

31 (c) The executive officer shall, at scheduled board meetings,  
32 report to the board the number of proposed default decisions or  
33 proposed settlement agreements adopted pursuant to this section.

34 SEC. 25. Section 1688.1 is added to the Business and  
35 Professions Code, to read:

36 1688.1. (a) Notwithstanding Section 11415.60 of the  
37 Government Code, the board may enter into a settlement with a  
38 licensee or applicant in lieu of the issuance of an accusation or  
39 statement of issues against that licensee or applicant, as applicable.

1     ***(b) The settlement shall include language identifying the factual***  
2 ***basis for the action being taken and a list of the statutes or***  
3 ***regulations violated.***

4     ***(c) A person who enters a settlement pursuant to this section is***  
5 ***not precluded from filing a petition, in the timeframe permitted by***  
6 ***law, to modify the terms of the settlement or petition for early***  
7 ***termination of probation, if probation is part of the settlement.***

8     ***(d) Any settlement against a licensee executed pursuant to this***  
9 ***section shall be considered discipline and a public record and***  
10 ***shall be posted on the applicable board's Internet Web site. Any***  
11 ***settlement against an applicant executed pursuant to this section***  
12 ***shall be considered a public record and shall be posted on the***  
13 ***applicable board's Internet Web site.***

14     ***(e) The executive officer shall, at scheduled board meetings,***  
15 ***report to the board the number of proposed settlement agreements***  
16 ***adopted pursuant to this section.***

17     ***SEC. 26. Section 1688.2 is added to the Business and***  
18 ***Professions Code, to read:***

19     ***1688.2. (a) The license of a licensee shall be suspended***  
20 ***automatically during any time that the licensee is incarcerated***  
21 ***after conviction of a felony, regardless of whether the conviction***  
22 ***has been appealed. The board shall, immediately upon receipt of***  
23 ***the certified copy of the record of conviction, determine whether***  
24 ***the license of the licensee has been automatically suspended by***  
25 ***virtue of his or her incarceration, and if so, the duration of that***  
26 ***suspension. The board shall notify the licensee in writing of the***  
27 ***license suspension and of his or her right to elect to have the issue***  
28 ***of penalty heard as provided in subdivision (d).***

29     ***(b) Upon receipt of the certified copy of the record of conviction,***  
30 ***if after a hearing before an administrative law judge from the***  
31 ***Office of Administrative Hearings it is determined that the felony***  
32 ***for which the licensee was convicted was substantially related to***  
33 ***the qualifications, functions, or duties of a licensee, the board***  
34 ***shall suspend the license until the time for appeal has elapsed, if***  
35 ***no appeal has been taken, or until the judgment of conviction has***  
36 ***been affirmed on appeal or has otherwise become final, and until***  
37 ***further order of the board.***

38     ***(c) Notwithstanding subdivision (b), a conviction of a charge***  
39 ***of violating any federal statute or regulation or any statute or***  
40 ***regulation of this state, regulating dangerous drugs or controlled***

1 substances, or a conviction of Section 187, 261, 262, or 288 of the  
2 Penal Code, shall be conclusively presumed to be substantially  
3 related to the qualifications, functions, or duties of a licensee and  
4 no hearing shall be held on this issue. However, upon its own  
5 motion or for good cause shown, the board may decline to impose  
6 or may set aside the suspension when it appears to be in the interest  
7 of justice to do so, with due regard to maintaining the integrity of,  
8 and confidence in, the practice regulated by the board.

9 (d) (1) Discipline may be ordered against a licensee in  
10 accordance with the statutes and regulations of the board when  
11 the time for appeal has elapsed, the judgment of conviction has  
12 been affirmed on appeal, or an order granting probation is made  
13 suspending the imposition of sentence, irrespective of a subsequent  
14 order under Section 1203.4 of the Penal Code allowing the person  
15 to withdraw his or her plea of guilty and to enter a plea of not  
16 guilty, setting aside the verdict of guilty, or dismissing the  
17 accusation, complaint, information, or indictment.

18 (2) The issue of penalty shall be heard by an administrative law  
19 judge from the Office of Administrative Hearings. The hearing  
20 shall not be had until the judgment of conviction has become final  
21 or, irrespective of a subsequent order under Section 1203.4 of the  
22 Penal Code, an order granting probation has been made  
23 suspending the imposition of sentence; except that a licensee may,  
24 at his or her option, elect to have the issue of penalty decided  
25 before those time periods have elapsed. Where the licensee so  
26 elects, the issue of penalty shall be heard in the manner described  
27 in subdivision (b) at the hearing to determine whether the  
28 conviction was substantially related to the qualifications, functions,  
29 or duties of a licensee. If the conviction of a licensee who has made  
30 this election is overturned on appeal, any discipline ordered  
31 pursuant to this section shall automatically cease. Nothing in this  
32 subdivision shall prohibit the board from pursuing disciplinary  
33 action based on any cause other than the overturned conviction.

34 (e) The record of the proceedings resulting in a conviction,  
35 including a transcript of the testimony in those proceedings, may  
36 be received in evidence.

37 (f) Any other provision of law setting forth a procedure for the  
38 suspension or revocation of a license issued by the board shall not  
39 apply to proceedings conducted pursuant to this section.

1 SEC. 27. Section 1688.3 is added to the Business and  
2 Professions Code, to read:

3 1688.3. (a) Except as otherwise provided, any proposed  
4 decision or decision issued in accordance with the procedures set  
5 forth in Chapter 5 (commencing with Section 11500) of Part 1 of  
6 Division 3 of Title 2 of the Government Code, that contains any  
7 finding of fact that the licensee engaged in any act of sexual contact  
8 with a patient, as defined in subdivision (c) of Section 729, or any  
9 finding that the licensee has committed a sex offense, shall contain  
10 an order revoking the license. The proposed decision shall not  
11 contain any order staying the revocation of the licensee.

12 (b) As used in this section, the term sex offense shall mean any  
13 of the following:

14 (1) Any offense for which registration is required by Section  
15 290 of the Penal Code or a finding that a person committed such  
16 an act.

17 (2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,  
18 or 647(a) or (d) of the Penal Code or a finding that a person  
19 committed such an act.

20 (3) Any attempt to commit any of the offenses specified in this  
21 section.

22 (4) Any offense committed or attempted in any other state or  
23 against the laws of the United States which, if committed or  
24 attempted in this state, would have been punishable as one or more  
25 of the offenses specified in this section.

26 SEC. 28. Section 1688.4 is added to the Business and  
27 Professions Code, to read:

28 1688.4. (a) Except as otherwise provided, with regard to an  
29 individual who is required to register as a sex offender pursuant  
30 to Section 290 of the Penal Code, or the equivalent in another  
31 state or territory, under military law, or under federal law, the  
32 board shall be subject to the following requirements:

33 (1) The board shall deny an application by the individual for  
34 licensure in accordance with the procedures set forth in Chapter  
35 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
36 2 of the Government Code.

37 (2) If the individual is licensed under this chapter, the board  
38 shall promptly revoke the license of the individual in accordance  
39 with the procedures set forth in Chapter 5 (commencing with  
40 Section 11500) of Part 1 of Division 3 of Title 2 of the Government

1 *Code. The board shall not stay the revocation and place the license*  
2 *on probation.*

3 *(3) The board shall not reinstate or reissue the individual's*  
4 *license. The board shall not issue a stay of license denial nor place*  
5 *the license on probation.*

6 *(b) This section shall not apply to any of the following:*

7 *(1) An individual who has been relieved under Section 290.5 of*  
8 *the Penal Code of his or her duty to register as a sex offender, or*  
9 *whose duty to register has otherwise been formally terminated*  
10 *under California law or the law of the jurisdiction that requires*  
11 *his or her registration as a sex offender.*

12 *(2) An individual who is required to register as a sex offender*  
13 *pursuant to Section 290 of the Penal Code solely because of a*  
14 *misdemeanor conviction under Section 314 of the Penal Code.*  
15 *However, nothing in this paragraph shall prohibit the board from*  
16 *exercising its discretion to discipline a licensee under any other*  
17 *provision of state law based upon the licensee's conviction under*  
18 *Section 314 of the Penal Code.*

19 *(3) Any administrative adjudication proceeding under Chapter*  
20 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
21 *2 of the Government Code that is fully adjudicated prior to January*  
22 *1, 2008. A petition for reinstatement of a revoked or surrendered*  
23 *license shall be considered a new proceeding for purposes of this*  
24 *paragraph, and the prohibition against reinstating a license to an*  
25 *individual who is required to register as a sex offender shall be*  
26 *applicable.*

27 *SEC. 29. Section 1688.5 is added to the Business and*  
28 *Professions Code, to read:*

29 *1688.5. Unless otherwise provided, on or after July 1, 2013,*  
30 *the board shall post on its Internet Web site the following*  
31 *information, including the name and license number, in its*  
32 *possession, custody, or control regarding every licensee for which*  
33 *the board licenses:*

34 *(a) With regard to the status of every license, whether or not*  
35 *the licensee or former licensee is in good standing, subject to a*  
36 *temporary restraining order, subject to an interim suspension*  
37 *order, subject to a restriction or cease practice ordered pursuant*  
38 *to Section 23 of the Penal Code, or subject to any of the*  
39 *enforcement actions described in Section 803.1.*

1     (b) With regard to prior discipline of a licensee, whether or not  
2     the licensee or former licensee has been subject to discipline by  
3     the board or by the board of another state or jurisdiction, as  
4     described in Section 803.1.

5     (c) Any felony conviction of a licensee reported to the board.

6     (d) All current accusations filed by the Attorney General,  
7     including those accusations that are on appeal. For purposes of  
8     this paragraph, “current accusation” means an accusation that  
9     has not been dismissed, withdrawn, or settled, and has not been  
10    finally decided upon by an administrative law judge and the board  
11    unless an appeal of that decision is pending.

12    (e) Any malpractice judgment or arbitration award imposed  
13    against a licensee and reported to the board.

14    (f) Any hospital disciplinary action imposed against a licensee  
15    that resulted in the termination or revocation of a licensee’s  
16    hospital staff privileges for a medical disciplinary cause or reason  
17    pursuant to Section 805.

18    (g) Any misdemeanor conviction of a licensee that results in a  
19    disciplinary action or an accusation that is not subsequently  
20    withdrawn or dismissed.

21    (h) Appropriate disclaimers and explanatory statements to  
22    accompany the above information, including an explanation of  
23    what types of information are not disclosed. These disclaimers  
24    and statements shall be developed by the board and shall be  
25    adopted by regulation.

26    (i) The information provided on the Internet shall be in  
27    accordance with the California Public Records Act (Chapter 3.5  
28    (commencing with Section 6250) of Division 7 of Title 1 of the  
29    Government Code) and the Information Practices Act of 1977  
30    (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4  
31    of Division 3 of the Civil Code) and shall comply with the  
32    Department of Consumer Affairs Guidelines for Access to Public  
33    Records.

34    (j) Information provided on the Internet may not include  
35    personal information, unless otherwise provided pursuant to this  
36    chapter, including the home telephone number, date of birth, or  
37    social security number. The information may not include the  
38    licensee’s address, but may include the city and county of the  
39    licensee’s address of record.

1 SEC. 30. Section 1688.6 is added to the Business and  
2 Professions Code, to read:

3 1688.6. (a) Unless otherwise provided, if a licensee possesses  
4 a license or is otherwise authorized to practice in any state other  
5 than California or by any agency of the federal government and  
6 that license or authority is suspended or revoked outright, the  
7 California license of the licensee shall be suspended automatically  
8 for the duration of the suspension or revocation, unless terminated  
9 or rescinded as provided in subdivision (c). The board shall notify  
10 the licensee of the license suspension and of his or her right to  
11 have the issue of penalty heard as provided in this section.

12 (b) Upon its own motion or for good cause shown, the board  
13 may decline to impose or may set aside the suspension when it  
14 appears to be in the interest of justice to do so, with due regard  
15 to maintaining the integrity of, and confidence in, the specific  
16 healing art.

17 (c) The issue of penalty shall be heard by an administrative law  
18 judge sitting alone or with a panel of the board, in the discretion  
19 of the board. A licensee may request a hearing on the penalty and  
20 that hearing shall be held within 90 days from the date of the  
21 request. If the order suspending or revoking the license or authority  
22 to practice is overturned on appeal, any discipline ordered  
23 pursuant to this section shall automatically cease. Upon a showing  
24 to the administrative law judge or panel by the licensee that the  
25 out-of-state action is not a basis for discipline in California, the  
26 suspension shall be rescinded. If an accusation for permanent  
27 discipline is not filed within 90 days of the suspension imposed  
28 pursuant to this section, the suspension shall automatically  
29 terminate.

30 (d) The record of the proceedings that resulted in the suspension  
31 or revocation of the licensee's out-of-state license or authority to  
32 practice, including a transcript of the testimony therein, may be  
33 received in evidence.

34 (e) This section shall not apply to a licensee who maintains his  
35 or her primary practice in California, as evidenced by having  
36 maintained a practice in this state for not less than one year  
37 immediately preceding the date of suspension or revocation.  
38 Nothing in this section shall preclude a licensee's license from  
39 being suspended pursuant to any other provision of law.



1     (f) *This section shall not apply to a licensee whose license has*  
2 *been surrendered, whose only discipline is a medical staff*  
3 *disciplinary action at a federal hospital and not for medical*  
4 *disciplinary cause or reason as that term is defined in Section 805,*  
5 *or whose revocation or suspension has been stayed, even if the*  
6 *licensee remains subject to terms of probation or other discipline.*

7     (g) *This section shall not apply to a suspension or revocation*  
8 *imposed by a state that is based solely on the prior discipline of*  
9 *the licensee by another state.*

10    (h) *The other provisions of this article setting forth a procedure*  
11 *for the suspension or revocation of a licensee's license or*  
12 *certificate shall not apply to summary suspensions issued pursuant*  
13 *to this section. If a summary suspension has been issued pursuant*  
14 *to this section, the licensee may request that the hearing on the*  
15 *penalty conducted pursuant to subdivision (c) be held at the same*  
16 *time as a hearing on the accusation.*

17    (i) *A board that complies with Section 2310 shall not be subject*  
18 *to the requirements of this section.*

19    SEC. 31. *Section 1947.1 is added to the Business and*  
20 *Professions Code, to read:*

21    1947.1. (a) *The board may delegate to its executive officer the*  
22 *authority to adopt a proposed default decision where an*  
23 *administrative action to revoke a license has been filed and the*  
24 *licensee has failed to file a notice of defense or to appear at the*  
25 *hearing and a proposed default decision revoking the license has*  
26 *been issued.*

27    (b) *The board may delegate to its executive officer the authority*  
28 *to adopt a proposed settlement agreement where an administrative*  
29 *action to revoke a license has been filed by the board and the*  
30 *licensee has agreed to the revocation or surrender of his or her*  
31 *license.*

32    (c) *The executive officer shall, at scheduled board meetings,*  
33 *report to the board the number of proposed default decisions or*  
34 *proposed settlement agreements adopted pursuant to this section.*

35    SEC. 32. *Section 1947.2 is added to the Business and*  
36 *Professions Code, to read:*

37    1947.2. (a) *Notwithstanding Section 11415.60 of the*  
38 *Government Code, the board may enter into a settlement with a*  
39 *licensee or applicant in lieu of the issuance of an accusation or*  
40 *statement of issues against that licensee or applicant, as applicable.*

1     ***(b) The settlement shall include language identifying the factual***  
2     ***basis for the action being taken and a list of the statutes or***  
3     ***regulations violated.***

4     ***(c) A person who enters a settlement pursuant to this section is***  
5     ***not precluded from filing a petition, in the timeframe permitted by***  
6     ***law, to modify the terms of the settlement or petition for early***  
7     ***termination of probation, if probation is part of the settlement.***

8     ***(d) Any settlement against a licensee executed pursuant to this***  
9     ***section shall be considered discipline and a public record and***  
10    ***shall be posted on the applicable board's Internet Web site. Any***  
11    ***settlement against an applicant executed pursuant to this section***  
12    ***shall be considered a public record and shall be posted on the***  
13    ***applicable board's Internet Web site.***

14    ***(e) The executive officer shall, at scheduled board meetings,***  
15    ***report to the board the number of proposed settlement agreements***  
16    ***adopted pursuant to this section.***

17    ***SEC. 33. Section 1947.3 is added to the Business and***  
18    ***Professions Code, to read:***

19    ***1947.3. (a) The license of a licensee shall be suspended***  
20    ***automatically during any time that the licensee is incarcerated***  
21    ***after conviction of a felony, regardless of whether the conviction***  
22    ***has been appealed. The board shall, immediately upon receipt of***  
23    ***the certified copy of the record of conviction, determine whether***  
24    ***the license of the licensee has been automatically suspended by***  
25    ***virtue of his or her incarceration, and if so, the duration of that***  
26    ***suspension. The board shall notify the licensee in writing of the***  
27    ***license suspension and of his or her right to elect to have the issue***  
28    ***of penalty heard as provided in subdivision (d).***

29    ***(b) Upon receipt of the certified copy of the record of conviction,***  
30    ***if after a hearing before an administrative law judge from the***  
31    ***Office of Administrative Hearings it is determined that the felony***  
32    ***for which the licensee was convicted was substantially related to***  
33    ***the qualifications, functions, or duties of a licensee, the board***  
34    ***shall suspend the license until the time for appeal has elapsed, if***  
35    ***no appeal has been taken, or until the judgment of conviction has***  
36    ***been affirmed on appeal or has otherwise become final, and until***  
37    ***further order of the board.***

38    ***(c) Notwithstanding subdivision (b), a conviction of a charge***  
39    ***of violating any federal statute or regulation or any statute or***  
40    ***regulation of this state, regulating dangerous drugs or controlled***

1 substances, or a conviction of Section 187, 261, 262, or 288 of the  
2 Penal Code, shall be conclusively presumed to be substantially  
3 related to the qualifications, functions, or duties of a licensee and  
4 no hearing shall be held on this issue. However, upon its own  
5 motion or for good cause shown, the board may decline to impose  
6 or may set aside the suspension when it appears to be in the interest  
7 of justice to do so, with due regard to maintaining the integrity of,  
8 and confidence in, the practice regulated by the board.

9 (d) (1) Discipline may be ordered against a licensee in  
10 accordance with the statutes and regulations of the board when  
11 the time for appeal has elapsed, the judgment of conviction has  
12 been affirmed on appeal, or an order granting probation is made  
13 suspending the imposition of sentence, irrespective of a subsequent  
14 order under Section 1203.4 of the Penal Code allowing the person  
15 to withdraw his or her plea of guilty and to enter a plea of not  
16 guilty, setting aside the verdict of guilty, or dismissing the  
17 accusation, complaint, information, or indictment.

18 (2) The issue of penalty shall be heard by an administrative law  
19 judge from the Office of Administrative Hearings. The hearing  
20 shall not be had until the judgment of conviction has become final  
21 or, irrespective of a subsequent order under Section 1203.4 of the  
22 Penal Code, an order granting probation has been made  
23 suspending the imposition of sentence; except that a licensee may,  
24 at his or her option, elect to have the issue of penalty decided  
25 before those time periods have elapsed. Where the licensee so  
26 elects, the issue of penalty shall be heard in the manner described  
27 in subdivision (b) at the hearing to determine whether the  
28 conviction was substantially related to the qualifications, functions,  
29 or duties of a licensee. If the conviction of a licensee who has made  
30 this election is overturned on appeal, any discipline ordered  
31 pursuant to this section shall automatically cease. Nothing in this  
32 subdivision shall prohibit the board from pursuing disciplinary  
33 action based on any cause other than the overturned conviction.

34 (e) The record of the proceedings resulting in a conviction,  
35 including a transcript of the testimony in those proceedings, may  
36 be received in evidence.

37 (f) Any other provision of law setting forth a procedure for the  
38 suspension or revocation of a license issued by the board shall not  
39 apply to proceedings conducted pursuant to this section.

1 SEC. 34. Section 1947.4 is added to the Business and  
2 Professions Code, to read:

3 1947.4. (a) Except as otherwise provided, any proposed  
4 decision or decision issued in accordance with the procedures set  
5 forth in Chapter 5 (commencing with Section 11500) of Part 1 of  
6 Division 3 of Title 2 of the Government Code, that contains any  
7 finding of fact that the licensee engaged in any act of sexual contact  
8 with a patient, as defined in subdivision (c) of Section 729, or any  
9 finding that the licensee has committed a sex offense, shall contain  
10 an order revoking the license. The proposed decision or decision  
11 shall not contain any order staying the revocation of the licensee.

12 (b) As used in this section, the term sex offense shall mean any  
13 of the following:

14 (1) Any offense for which registration is required by Section  
15 290 of the Penal Code or a finding that a person committed such  
16 an act.

17 (2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,  
18 or 647(a) or (d) of the Penal Code or a finding that a person  
19 committed such act.

20 (3) Any attempt to commit any of the offenses specified in this  
21 section.

22 (4) Any offense committed or attempted in any other state or  
23 against the laws of the United States which, if committed or  
24 attempted in this state, would have been punishable as one or more  
25 of the offenses specified in this section.

26 SEC. 35. Section 1947.5 is added to the Business and  
27 Professions Code, to read:

28 1947.5. (a) Except as otherwise provided, with regard to an  
29 individual who is required to register as a sex offender pursuant  
30 to Section 290 of the Penal Code, or the equivalent in another  
31 state or territory, under military law, or under federal law, the  
32 board shall be subject to the following requirements:

33 (1) The board shall deny an application by the individual for  
34 licensure in accordance with the procedures set forth in Chapter  
35 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
36 2 of the Government Code.

37 (2) If the individual is licensed under this chapter, the board  
38 shall promptly revoke the license of the individual in accordance  
39 with the procedures set forth in Chapter 5 (commencing with  
40 Section 11500) of Part 1 of Division 3 of Title 2 of the Government

1 *Code. The board shall not stay the revocation and place the license*  
2 *on probation.*

3 *(3) The board shall not reinstate or reissue the individual's*  
4 *license. The board shall not issue a stay of license denial nor place*  
5 *the license on probation.*

6 *(b) This section shall not apply to any of the following:*

7 *(1) An individual who has been relieved under Section 290.5 of*  
8 *the Penal Code of his or her duty to register as a sex offender, or*  
9 *whose duty to register has otherwise been formally terminated*  
10 *under California law or the law of the jurisdiction that requires*  
11 *his or her registration as a sex offender.*

12 *(2) An individual who is required to register as a sex offender*  
13 *pursuant to Section 290 of the Penal Code solely because of a*  
14 *misdemeanor conviction under Section 314 of the Penal Code.*  
15 *However, nothing in this paragraph shall prohibit the board from*  
16 *exercising its discretion to discipline a licensee under any other*  
17 *provision of state law based upon the licensee's conviction under*  
18 *Section 314 of the Penal Code.*

19 *(3) Any administrative adjudication proceeding under Chapter*  
20 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
21 *2 of the Government Code that is fully adjudicated prior to January*  
22 *1, 2008. A petition for reinstatement of a revoked or surrendered*  
23 *license shall be considered a new proceeding for purposes of this*  
24 *paragraph, and the prohibition against reinstating a license to an*  
25 *individual who is required to register as a sex offender shall be*  
26 *applicable.*

27 *SEC. 36. Section 1947.6 is added to the Business and*  
28 *Professions Code, to read:*

29 *1947.6. (a) Notwithstanding any other provision of law, any*  
30 *employer of a licensee shall report to the board the suspension or*  
31 *termination for cause, or any resignation in lieu of suspension or*  
32 *termination for cause, of any licensee in its employ within 15*  
33 *business days. The report shall not be made until after the*  
34 *conclusion of the review process specified in Section 52.3 of Title*  
35 *2 of the California Code of Regulations and Skelly v. State*  
36 *Personnel Bd. (1975) 15 Cal.3d 194, for public employees. This*  
37 *required reporting shall not constitute a waiver of confidentiality*  
38 *of medical records. The information reported or disclosed shall*  
39 *be kept confidential except as provided in subdivision (c) of Section*  
40 *800 and shall not be subject to discovery in civil cases.*

1     (b) *The information to be reported by the employer shall include*  
2 *the name and license number of the licensee involved, a*  
3 *description of the facts and circumstances of the suspension or*  
4 *termination for cause, any resignation in lieu of suspension or*  
5 *termination for cause, and any other relevant information deemed*  
6 *appropriate by the employer.*

7     (c) *The board shall be entitled to inspect and copy the following*  
8 *documents in the record for any suspension or termination for*  
9 *cause, or any resignation in lieu of suspension or termination for*  
10 *cause, resulting in action that is required to be reported pursuant*  
11 *to this section:*

12     (1) *Any statement for suspension or termination of the licensee.*

13     (2) *Any document or exhibits relevant to the suspension or*  
14 *termination.*

15     (d) *If, during the investigation by the board of the cause for the*  
16 *termination or suspension or resignation of the licensee, it is found*  
17 *that there has been a violation of existing state or federal law, the*  
18 *board shall report the violation to the appropriate agency.*

19     (e) *For purposes of this section, “suspension or termination for*  
20 *cause” or “resignation in lieu of suspension or termination for*  
21 *cause” is defined as resignation, suspension, or termination from*  
22 *employment for any of the following reasons:*

23     (1) *Use of controlled substances or alcohol to the extent that it*  
24 *impairs the licensee’s ability to safely practice.*

25     (2) *Unlawful sale of a controlled substance or other prescription*  
26 *items.*

27     (3) *Patient or client abuse, neglect, physical harm, or sexual*  
28 *contact with a patient or client.*

29     (4) *Gross negligence or incompetence.*

30     (5) *Theft from a patient or client, any other employee, or the*  
31 *employer.*

32     (f) *As used in this section, the following definitions apply:*

33     (1) *“Gross negligence” means a substantial departure from the*  
34 *standard of care, which, under similar circumstances, would have*  
35 *ordinarily been exercised by a competent licensee, and which has*  
36 *or could have resulted in harm to the consumer. An exercise of so*  
37 *slight a degree of care as to justify the belief that there was a*  
38 *conscious disregard or indifference for the health, safety, or*  
39 *welfare of the consumer shall be considered a substantial departure*  
40 *from the standard of care.*

1 (2) “Incompetence” means the lack of possession of, and the  
2 failure to exercise that degree of learning, skill, care, and  
3 experience ordinarily possessed by, a responsible licensee.

4 (3) “Willful” means a knowing and intentional violation of a  
5 known legal duty.

6 (g) (1) Willful failure of an employer to make a report required  
7 by this section is punishable by an administrative fine not to exceed  
8 one hundred thousand dollars (\$100,000) per violation.

9 (2) Any failure of an employer, other than willful failure, to  
10 make a report required by this section is punishable by an  
11 administrative fine not to exceed fifty thousand dollars (\$50,000).

12 (h) The board shall investigate the circumstances underlying  
13 any report received pursuant to this section within 30 days to  
14 determine if an interim suspension order or temporary restraining  
15 order should be issued. The board shall otherwise provide timely  
16 disposition of the reports received pursuant to this section.

17 (i) The board shall send to the licentiate a copy of the report  
18 along with the reasons for the filing of the report and notice  
19 advising the licentiate of his or her right to submit additional  
20 statements or other information to the board.

21 (j) Pursuant to Section 43.8 of the Civil Code, no person shall  
22 incur any civil penalty as a result of making any report required  
23 by this article.

24 (k) No report is required under this section where a report of  
25 the action taken is already required under Section 805.

26 SEC. 37. Section 1947.7 is added to the Business and  
27 Professions Code, to read:

28 1947.7. Unless otherwise provided, on or after July 1, 2013,  
29 the board shall post on its Internet Web site the following  
30 information, including the name and license number, in its  
31 possession, custody, or control regarding every licensee for which  
32 the board licenses:

33 (a) With regard to the status of every license, whether or not  
34 the licensee or former licensee is in good standing, subject to a  
35 temporary restraining order, subject to an interim suspension  
36 order, subject to a restriction or cease practice ordered pursuant  
37 to Section 23 of the Penal Code, or subject to any of the  
38 enforcement actions described in Section 803.1.

39 (b) With regard to prior discipline of a licensee, whether or not  
40 the licensee or former licensee has been subject to discipline by

1 the board or by the board of another state or jurisdiction, as  
2 described in Section 803.1.

3 (c) Any felony conviction of a licensee reported to the board.

4 (d) All current accusations filed by the Attorney General,  
5 including those accusations that are on appeal. For purposes of  
6 this paragraph, “current accusation” means an accusation that  
7 has not been dismissed, withdrawn, or settled, and has not been  
8 finally decided upon by an administrative law judge and the board  
9 unless an appeal of that decision is pending.

10 (e) Any malpractice judgment or arbitration award imposed  
11 against a licensee and reported to the board.

12 (f) Any hospital disciplinary action imposed against a licensee  
13 that resulted in the termination or revocation of a licensee’s  
14 hospital staff privileges for a medical disciplinary cause or reason  
15 pursuant to Section 805.

16 (g) Any misdemeanor conviction of a licensee that results in a  
17 disciplinary action or an accusation that is not subsequently  
18 withdrawn or dismissed.

19 (h) Appropriate disclaimers and explanatory statements to  
20 accompany the above information, including an explanation of  
21 what types of information are not disclosed. These disclaimers  
22 and statements shall be developed by the board and shall be  
23 adopted by regulation.

24 (i) The information provided on the Internet shall be in  
25 accordance with the California Public Records Act (Chapter 3.5  
26 commencing with Section 6250) of Division 7 of Title 1 of the  
27 Government Code) and the Information Practices Act of 1977  
28 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4  
29 of Division 3 of the Civil Code) and shall comply with the  
30 Department of Consumer Affairs Guidelines for Access to Public  
31 Records.

32 (j) Information provided on the Internet may not include  
33 personal information, unless otherwise provided pursuant to this  
34 chapter, including the home telephone number, date of birth, or  
35 social security number. The information may not include the  
36 licensee’s address, but may include the city and county of the  
37 licensee’s address of record.

38 SEC. 38. Section 1947.8 is added to the Business and  
39 Professions Code, to read:



1     1947.8. (a) Unless otherwise provided, if a licensee possesses  
2     a license or is otherwise authorized to practice in any state other  
3     than California or by any agency of the federal government and  
4     that license or authority is suspended or revoked outright, the  
5     California license of the licensee shall be suspended automatically  
6     for the duration of the suspension or revocation, unless terminated  
7     or rescinded as provided in subdivision (c). The board shall notify  
8     the licensee of the license suspension and of his or her right to  
9     have the issue of penalty heard as provided in this section.

10    (b) Upon its own motion or for good cause shown, the board  
11    may decline to impose or may set aside the suspension when it  
12    appears to be in the interest of justice to do so, with due regard  
13    to maintaining the integrity of, and confidence in, the specific  
14    healing art.

15    (c) The issue of penalty shall be heard by an administrative law  
16    judge sitting alone or with a panel of the board, in the discretion  
17    of the board. A licensee may request a hearing on the penalty and  
18    that hearing shall be held within 90 days from the date of the  
19    request. If the order suspending or revoking the license or authority  
20    to practice is overturned on appeal, any discipline ordered  
21    pursuant to this section shall automatically cease. Upon a showing  
22    to the administrative law judge or panel by the licensee that the  
23    out-of-state action is not a basis for discipline in California, the  
24    suspension shall be rescinded. If an accusation for permanent  
25    discipline is not filed within 90 days of the suspension imposed  
26    pursuant to this section, the suspension shall automatically  
27    terminate.

28    (d) The record of the proceedings that resulted in the suspension  
29    or revocation of the licensee's out-of-state license or authority to  
30    practice, including a transcript of the testimony therein, may be  
31    received in evidence.

32    (e) This section shall not apply to a licensee who maintains his  
33    or her primary practice in California, as evidenced by having  
34    maintained a practice in this state for not less than one year  
35    immediately preceding the date of suspension or revocation.  
36    Nothing in this section shall preclude a licensee's license from  
37    being suspended pursuant to any other provision of law.

38    (f) This section shall not apply to a licensee whose license has  
39    been surrendered, whose only discipline is a medical staff  
40    disciplinary action at a federal hospital and not for medical

1 *disciplinary cause or reason as that term is defined in Section 805,*  
2 *or whose revocation or suspension has been stayed, even if the*  
3 *licensee remains subject to terms of probation or other discipline.*

4 *(g) This section shall not apply to a suspension or revocation*  
5 *imposed by a state that is based solely on the prior discipline of*  
6 *the licensee by another state.*

7 *(h) The other provisions of this article setting forth a procedure*  
8 *for the suspension or revocation of a licensee's license or*  
9 *certificate shall not apply to summary suspensions issued pursuant*  
10 *to this section. If a summary suspension has been issued pursuant*  
11 *to this section, the licensee may request that the hearing on the*  
12 *penalty conducted pursuant to subdivision (c) be held at the same*  
13 *time as a hearing on the accusation.*

14 *(i) A board that complies with Section 2310 shall not be subject*  
15 *to the requirements of this section.*

16 *SEC. 39. Section 2246 of the Business and Professions Code*  
17 *is amended to read:*

18 *2246. (a) Any proposed decision or decision issued under this*  
19 *article that contains any finding of fact that the licensee engaged*  
20 *in any act of sexual exploitation, as described in paragraphs (3) to*  
21 *(5), inclusive, of subdivision (b) of Section 729, with a patient*  
22 *shall contain an order of revocation. The revocation shall not be*  
23 *stayed by the administrative law judge.*

24 *(b) Except as otherwise provided, any proposed decision or*  
25 *decision issued under this article in accordance with the*  
26 *procedures set forth in Chapter 5 (commencing with Section 11500)*  
27 *of Part 1 of Division 3 of Title 2 of the Government Code, that*  
28 *contains any finding of fact that the licensee has committed a sex*  
29 *offense, shall contain an order revoking the license. The proposed*  
30 *decision or decision shall not contain any order staying the*  
31 *revocation of the licensee.*

32 *(c) As used in this section, the term sex offense shall mean any*  
33 *of the following:*

34 *(1) Any offense for which registration is required by Section*  
35 *290 of the Penal Code or a finding that a person committed such*  
36 *an act.*

37 *(2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,*  
38 *or 647(a) or (d) of the Penal Code or a finding that a person*  
39 *committed such an act.*

1     (3) Any attempt to commit any of the offenses specified in this  
2 section.

3     (4) Any offense committed or attempted in any other state or  
4 against the laws of the United States which, if committed or  
5 attempted in this state, would have been punishable as one or more  
6 of the offenses specified in this section.

7     SEC. 40. Section 2533.5 is added to the Business and  
8 Professions Code, to read:

9     2533.5. (a) The board may delegate to its executive officer the  
10 authority to adopt a proposed default decision where an  
11 administrative action to revoke a license has been filed and the  
12 licensee has failed to file a notice of defense or to appear at the  
13 hearing and a proposed default decision revoking the license has  
14 been issued.

15     (b) The board may delegate to its executive officer the authority  
16 to adopt a proposed settlement agreement where an administrative  
17 action to revoke a license has been filed by the board and the  
18 licensee has agreed to the revocation or surrender of his or her  
19 license.

20     (c) The executive officer shall, at scheduled board meetings,  
21 report to the board the number of proposed default decisions or  
22 proposed settlement agreements adopted pursuant to this section.

23     SEC. 41. Section 2533.6 is added to the Business and  
24 Professions Code, to read:

25     2533.6. (a) Notwithstanding Section 11415.60 of the  
26 Government Code, the board may enter into a settlement with a  
27 licensee or applicant in lieu of the issuance of an accusation or  
28 statement of issues against that licensee or applicant, as applicable.

29     (b) The settlement shall include language identifying the factual  
30 basis for the action being taken and a list of the statutes or  
31 regulations violated.

32     (c) A person who enters a settlement pursuant to this section is  
33 not precluded from filing a petition, in the timeframe permitted by  
34 law, to modify the terms of the settlement or petition for early  
35 termination of probation, if probation is part of the settlement.

36     (d) Any settlement against a licensee executed pursuant to this  
37 section shall be considered discipline and a public record and  
38 shall be posted on the applicable board's Internet Web site. Any  
39 settlement against an applicant executed pursuant to this section

1 *shall be considered a public record and shall be posted on the*  
2 *applicable board's Internet Web site.*

3 *(e) The executive officer shall, at scheduled board meetings,*  
4 *report to the board the number of proposed settlement agreements*  
5 *adopted pursuant to this section.*

6 *SEC. 42. Section 2533.7 is added to the Business and*  
7 *Professions Code, to read:*

8 *2533.7. (a) The license of a licensee shall be suspended*  
9 *automatically during any time that the licensee is incarcerated*  
10 *after conviction of a felony, regardless of whether the conviction*  
11 *has been appealed. The board shall, immediately upon receipt of*  
12 *the certified copy of the record of conviction, determine whether*  
13 *the license of the licensee has been automatically suspended by*  
14 *virtue of his or her incarceration, and if so, the duration of that*  
15 *suspension. The board shall notify the licensee in writing of the*  
16 *license suspension and of his or her right to elect to have the issue*  
17 *of penalty heard as provided in subdivision (d).*

18 *(b) Upon receipt of the certified copy of the record of conviction,*  
19 *if after a hearing before an administrative law judge from the*  
20 *Office of Administrative Hearings it is determined that the felony*  
21 *for which the licensee was convicted was substantially related to*  
22 *the qualifications, functions, or duties of a licensee, the board*  
23 *shall suspend the license until the time for appeal has elapsed, if*  
24 *no appeal has been taken, or until the judgment of conviction has*  
25 *been affirmed on appeal or has otherwise become final, and until*  
26 *further order of the board.*

27 *(c) Notwithstanding subdivision (b), a conviction of a charge*  
28 *of violating any federal statute or regulation or any statute or*  
29 *regulation of this state, regulating dangerous drugs or controlled*  
30 *substances, or a conviction of Section 187, 261, 262, or 288 of the*  
31 *Penal Code, shall be conclusively presumed to be substantially*  
32 *related to the qualifications, functions, or duties of a licensee and*  
33 *no hearing shall be held on this issue. However, upon its own*  
34 *motion or for good cause shown, the board may decline to impose*  
35 *or may set aside the suspension when it appears to be in the interest*  
36 *of justice to do so, with due regard to maintaining the integrity of,*  
37 *and confidence in, the practice regulated by the board.*

38 *(d) (1) Discipline may be ordered against a licensee in*  
39 *accordance with the statutes and regulations of the board when*  
40 *the time for appeal has elapsed, the judgment of conviction has*

1 *been affirmed on appeal, or an order granting probation is made*  
2 *suspending the imposition of sentence, irrespective of a subsequent*  
3 *order under Section 1203.4 of the Penal Code allowing the person*  
4 *to withdraw his or her plea of guilty and to enter a plea of not*  
5 *guilty, setting aside the verdict of guilty, or dismissing the*  
6 *accusation, complaint, information, or indictment.*

7 *(2) The issue of penalty shall be heard by an administrative law*  
8 *judge from the Office of Administrative Hearings. The hearing*  
9 *shall not be had until the judgment of conviction has become final*  
10 *or, irrespective of a subsequent order under Section 1203.4 of the*  
11 *Penal Code, an order granting probation has been made*  
12 *suspending the imposition of sentence; except that a licensee may,*  
13 *at his or her option, elect to have the issue of penalty decided*  
14 *before those time periods have elapsed. Where the licensee so*  
15 *elects, the issue of penalty shall be heard in the manner described*  
16 *in subdivision (b) at the hearing to determine whether the*  
17 *conviction was substantially related to the qualifications, functions,*  
18 *or duties of a licensee. If the conviction of a licensee who has made*  
19 *this election is overturned on appeal, any discipline ordered*  
20 *pursuant to this section shall automatically cease. Nothing in this*  
21 *subdivision shall prohibit the board from pursuing disciplinary*  
22 *action based on any cause other than the overturned conviction.*

23 *(e) The record of the proceedings resulting in a conviction,*  
24 *including a transcript of the testimony in those proceedings, may*  
25 *be received in evidence.*

26 *(f) Any other provision of law setting forth a procedure for the*  
27 *suspension or revocation of a license issued by the board shall not*  
28 *apply to proceedings conducted pursuant to this section.*

29 *SEC. 43. Section 2533.8 is added to the Business and*  
30 *Professions Code, to read:*

31 *2533.8. (a) Except as otherwise provided, any proposed*  
32 *decision or decision issued in accordance with the procedures set*  
33 *forth in Chapter 5 (commencing with Section 11500) of Part 1 of*  
34 *Division 3 of Title 2 of the Government Code, that contains any*  
35 *finding of fact that the licensee engaged in any act of sexual contact*  
36 *with a patient, as defined in subdivision (c) of Section 729, or any*  
37 *finding that the licensee has committed a sex offense, shall contain*  
38 *an order revoking the license. The proposed decision shall not*  
39 *contain any order staying the revocation of the licensee.*

1     (b) As used in this section, the term sex offense shall mean any  
2     of the following:

3     (1) Any offense for which registration is required by Section  
4     290 of the Penal Code or a finding that a person committed such  
5     an act.

6     (2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,  
7     or 647(a) or (d) of the Penal Code or a finding that a person  
8     committed such act.

9     (3) Any attempt to commit any of the offenses specified in this  
10    section.

11    (4) Any offense committed or attempted in any other state or  
12    against the laws of the United States which, if committed or  
13    attempted in this state, would have been punishable as one or more  
14    of the offenses specified in this Section.

15    SEC. 44. Section 2533.9 is added to the Business and  
16    Professions Code, to read:

17    2533.9. (a) Except as otherwise provided, with regard to an  
18    individual who is required to register as a sex offender pursuant  
19    to Section 290 of the Penal Code, or the equivalent in another  
20    state or territory, under military law, or under federal law, the  
21    board shall be subject to the following requirements:

22    (1) The board shall deny an application by the individual for  
23    licensure in accordance with the procedures set forth in Chapter  
24    5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
25    2 of the Government Code.

26    (2) If the individual is licensed under this chapter, the board  
27    shall promptly revoke the license of the individual in accordance  
28    with the procedures set forth in Chapter 5 (commencing with  
29    Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
30    Code. The board shall not stay the revocation and place the license  
31    on probation.

32    (3) The board shall not reinstate or reissue the individual's  
33    license. The board shall not issue a stay of license denial nor place  
34    the license on probation.

35    (b) This section shall not apply to any of the following:

36    (1) An individual who has been relieved under Section 290.5 of  
37    the Penal Code of his or her duty to register as a sex offender, or  
38    whose duty to register has otherwise been formally terminated  
39    under California law or the law of the jurisdiction that requires  
40    his or her registration as a sex offender.

1     (2) *An individual who is required to register as a sex offender*  
2 *pursuant to Section 290 of the Penal Code solely because of a*  
3 *misdemeanor conviction under Section 314 of the Penal Code.*  
4 *However, nothing in this paragraph shall prohibit the board from*  
5 *exercising its discretion to discipline a licensee under any other*  
6 *provision of state law based upon the licensee's conviction under*  
7 *Section 314 of the Penal Code.*

8     (3) *Any administrative adjudication proceeding under Chapter*  
9 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
10 *2 of the Government Code that is fully adjudicated prior to January*  
11 *1, 2008. A petition for reinstatement of a revoked or surrendered*  
12 *license shall be considered a new proceeding for purposes of this*  
13 *paragraph, and the prohibition against reinstating a license to an*  
14 *individual who is required to register as a sex offender shall be*  
15 *applicable.*

16     SEC. 45. *Section 2533.10 is added to the Business and*  
17 *Professions Code, to read:*

18     2533.10. (a) *Notwithstanding any other provision of law*  
19 *making a communication between a licensee and his or her patients*  
20 *a privileged communication, those provisions shall not apply to*  
21 *investigations or proceedings conducted by the board. Members*  
22 *of the board, deputies, employees, agents, the office of the Attorney*  
23 *General, and representatives of the board shall keep in confidence*  
24 *during the course of investigations the names of any patients whose*  
25 *records are reviewed and may not disclose or reveal those names,*  
26 *except as is necessary during the course of an investigation, unless*  
27 *and until proceedings are instituted. The authority under this*  
28 *subdivision to examine records of patients in the office of a licensee*  
29 *is limited to records of patients who have complained to the board*  
30 *about that licensee.*

31     (b) *Notwithstanding any other provision of law, the Attorney*  
32 *General and his or her investigative agents, and the board and its*  
33 *investigators and representatives may inquire into any alleged*  
34 *violation of the laws under the jurisdiction of the board or any*  
35 *other federal or state law, regulation, or rule relevant to the*  
36 *practice regulated by the board, whichever is applicable, and may*  
37 *inspect documents relevant to those investigations in accordance*  
38 *with the following procedures:*

1     (1) Any document relevant to an investigation may be inspected,  
2     and copies may be obtained, where a patient provides written  
3     authorization.

4     (2) Any document relevant to the business operations of a  
5     licensee, and not involving medical records attributable to  
6     identifiable patients, may be inspected and copied where relevant  
7     to an investigation of a licensee.

8     (c) In all cases where documents are inspected or copies of  
9     those documents are received, their acquisition or review shall be  
10    arranged so as not to unnecessarily disrupt the medical and  
11    business operations of the licensee or of the facility where the  
12    records are kept or used.

13    (d) Where certified documents are lawfully requested from  
14    licensees in accordance with this section by the Attorney General  
15    or his or her agents or deputies, or investigators of any board, the  
16    documents shall be provided within 10 business days of receipt of  
17    the request, unless the licensee is unable to provide the certified  
18    documents within this time period for good cause, including, but  
19    not limited to, physical inability to access the records in the time  
20    allowed due to illness or travel. Failure to produce requested  
21    certified documents or copies thereof, after being informed of the  
22    required deadline, shall constitute unprofessional conduct. A board  
23    may use its authority to cite and fine a licensee for any violation  
24    of this section. This remedy is in addition to any other authority  
25    of the board to sanction a licensee for a delay in producing  
26    requested records.

27    (e) Searches conducted of the office or medical facility of any  
28    licensee shall not interfere with the recordkeeping format or  
29    preservation needs of any licensee necessary for the lawful care  
30    of patients.

31    (f) The licensee shall cooperate with the board in furnishing  
32    information or assistance as may be required, including, but not  
33    limited to, participation in an interview with investigators or  
34    representatives of the board.

35    (g) This section shall not apply to a licensee who does not have  
36    access to, and control over, certified medical records or other  
37    types of documents that belong to or are controlled by a health  
38    facility or clinic.

39    SEC. 46. Section 2533.11 is added to the Business and  
40    Professions Code, to read:



1     2533.11. (a) (1) Notwithstanding any other provision of law,  
2     a licensee who fails or refuses to comply with a request for the  
3     certified medical records of a patient that is accompanied by that  
4     patient's written authorization for release of records to a board  
5     together with a notice citing this section and describing the  
6     penalties for failure to comply with this section shall be required  
7     to pay to the board a civil penalty of up to one thousand dollars  
8     (\$1,000) per day for each day that the documents have not been  
9     produced after the 15th day, up to ten thousand dollars (\$10,000),  
10    unless the licensee is unable to provide the documents within this  
11    time period for good cause.

12    (2) A health care facility shall comply with a request for the  
13    certified medical records of a patient that is accompanied by that  
14    patient's written authorization for release of records to a board  
15    together with a notice citing this section and describing the  
16    penalties for failure to comply with this section. Failure to provide  
17    the authorizing patient's certified medical records to the board  
18    within 15 days of receiving the request, authorization, and notice  
19    shall subject the health care facility to a civil penalty, payable to  
20    the board, of up to one thousand dollars (\$1,000) per day for each  
21    day that the documents have not been produced after the 15th day,  
22    up to ten thousand dollars (\$10,000), unless the health care facility  
23    is unable to provide the documents within this time period for good  
24    cause. This paragraph shall not require health care facilities to  
25    assist the board in obtaining the patient's authorization. The board  
26    shall pay the reasonable costs of copying the certified medical  
27    records, but shall not be required to make that payment prior to  
28    the production of the medical records.

29    (b) (1) A licensee who fails or refuses to comply with a court  
30    order, issued in the enforcement of a subpoena, mandating the  
31    release of records to the board, shall pay to the board a civil  
32    penalty of up to one thousand dollars (\$1,000) per day for each  
33    day that the documents have not been produced after the date by  
34    which the court order requires the documents to be produced, up  
35    to ten thousand dollars (\$10,000), unless it is determined that the  
36    order is unlawful or invalid. Any statute of limitations applicable  
37    to the filing of an accusation by the board shall be tolled during  
38    the period the licensee is out of compliance with the court order  
39    and during any related appeals.

(2) Any licensee who fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to a board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars (\$5,000). The fine shall be added to the licensee's renewal fee if it is not paid by the next succeeding renewal date. Any statute of limitations applicable to the filing of an accusation by the board shall be tolled during the period the licensee is out of compliance with the court order and during any related appeals.

(3) A health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of patient records to the board, that is accompanied by a notice citing this section and describing the penalties for failure to comply with this section, shall pay to the healing arts board a civil penalty of up to one thousand dollars (\$1,000) per day for each day that the documents have not been produced, up to ten thousand dollars (\$10,000), after the date by which the court order requires the documents to be produced, unless it is determined that the order is unlawful or invalid. Any statute of limitations applicable to the filing of an accusation by the board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(4) Any health care facility that fails or refuses to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board is guilty of a misdemeanor punishable by a fine payable to the board not to exceed five thousand dollars (\$5,000). Any statute of limitations applicable to the filing of an accusation by the healing arts board against a licensee shall be tolled during the period the health care facility is out of compliance with the court order and during any related appeals.

(c) Multiple acts by a licensee in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment. Multiple acts by a health care facility in violation of subdivision (b) shall be punishable by a fine not to exceed five thousand dollars (\$5,000), shall be reported to the State Department of Public Health, and shall be considered as grounds for disciplinary action with respect

1 to licensure, including suspension or revocation of the license or  
2 certificate.

3 (d) A failure or refusal of a licensee to comply with a court  
4 order, issued in the enforcement of a subpoena, mandating the  
5 release of records to the healing arts board constitutes  
6 unprofessional conduct and is grounds for suspension or revocation  
7 of his or her license.

8 (e) Imposition of the civil penalties authorized by this section  
9 shall be in accordance with the Administrative Procedure Act  
10 (Chapter 5 (commencing with Section 11500) of Division 3 of Title  
11 2 of the Government Code). Any civil penalties paid to, or received  
12 by, the board pursuant to this section shall be deposited into the  
13 fund administered by the board.

14 (f) For purposes of this section, “certified medical records”  
15 means a copy of the patient’s medical records authenticated by  
16 the licensee or health care facility, as appropriate, on a form  
17 prescribed by the licensee’s board.

18 (g) For purposes of this section, a “health care facility” means  
19 a clinic or health facility licensed or exempt from licensure  
20 pursuant to Division 2 (commencing with Section 1200) of the  
21 Health and Safety Code.

22 (h) If a board complies with Section 1684.1, 2225.5, or 2969,  
23 that board shall not be subject to the requirements of this section.

24 (i) This section shall not apply to a licensee who does not have  
25 access to, or control over, certified medical records or other types  
26 of documents that belong to or are controlled by a health facility  
27 or clinic.

28 SEC. 47. Section 2533.12 is added to the Business and  
29 Professions Code, to read:

30 2533.12. (a) Notwithstanding any other provision of law, any  
31 employer of a licensee shall report to the board the suspension or  
32 termination for cause, or any resignation in lieu of suspension or  
33 termination for cause, of any licensee in its employ within 15  
34 business days. The report shall not be made until after the  
35 conclusion of the review process specified in Section 52.3 of Title  
36 2 of the California Code of Regulations and *Skelly v. State*  
37 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This  
38 required reporting shall not constitute a waiver of confidentiality  
39 of medical records. The information reported or disclosed shall

1 *be kept confidential except as provided in subdivision (c) of Section*  
2 *800 and shall not be subject to discovery in civil cases.*

3 *(b) The information to be reported by the employer shall include*  
4 *the name and license number of the licensee involved, a*  
5 *description of the facts and circumstances of the suspension or*  
6 *termination for cause, any resignation in lieu of suspension or*  
7 *termination for cause, and any other relevant information deemed*  
8 *appropriate by the employer.*

9 *(c) The board shall be entitled to inspect and copy the following*  
10 *documents in the record for any suspension or termination for*  
11 *cause, or any resignation in lieu of suspension or termination for*  
12 *cause, resulting in action that is required to be reported pursuant*  
13 *to this section:*

14 *(1) Any statement for suspension or termination of the licensee.*

15 *(2) Any document or exhibits relevant to the suspension or*  
16 *termination.*

17 *(d) If, during the investigation by the board of the cause for the*  
18 *termination or suspension or resignation of the licensee, it is found*  
19 *that there has been a violation of existing state or federal law, the*  
20 *board shall report the violation to the appropriate agency.*

21 *(e) For purposes of this section, “suspension or termination for*  
22 *cause” or “resignation in lieu of suspension or termination for*  
23 *cause” is defined as resignation, suspension, or termination from*  
24 *employment for any of the following reasons:*

25 *(1) Use of controlled substances or alcohol to the extent that it*  
26 *impairs the licensee’s ability to safely practice.*

27 *(2) Unlawful sale of a controlled substance or other prescription*  
28 *items.*

29 *(3) Patient or client abuse, neglect, physical harm, or sexual*  
30 *contact with a patient or client.*

31 *(4) Gross negligence or incompetence.*

32 *(5) Theft from a patient or client, any other employee, or the*  
33 *employer.*

34 *(f) As used in this section, the following definitions apply:*

35 *(1) “Gross negligence” means a substantial departure from the*  
36 *standard of care, which, under similar circumstances, would have*  
37 *ordinarily been exercised by a competent licensee, and which has*  
38 *or could have resulted in harm to the consumer. An exercise of so*  
39 *slight a degree of care as to justify the belief that there was a*  
40 *conscious disregard or indifference for the health, safety, or*

1 *welfare of the consumer shall be considered a substantial departure*  
2 *from the standard of care.*

3 (2) *“Incompetence” means the lack of possession of, and the*  
4 *failure to exercise that degree of learning, skill, care, and*  
5 *experience ordinarily possessed by, a responsible licensee.*

6 (3) *“Willful” means a knowing and intentional violation of a*  
7 *known legal duty.*

8 (g) (1) *Willful failure of an employer to make a report required*  
9 *by this section is punishable by an administrative fine not to exceed*  
10 *one hundred thousand dollars (\$100,000) per violation.*

11 (2) *Any failure of an employer, other than willful failure, to*  
12 *make a report required by this section is punishable by an*  
13 *administrative fine not to exceed fifty thousand dollars (\$50,000).*

14 (h) *The board shall investigate the circumstances underlying*  
15 *any report received pursuant to this section within 30 days to*  
16 *determine if an interim suspension order or temporary restraining*  
17 *order should be issued. The board shall otherwise provide timely*  
18 *disposition of the reports received pursuant to this section.*

19 (i) *The board shall send to the licentiate a copy of the report*  
20 *along with the reasons for the filing of the report and notice*  
21 *advising the licentiate of his or her right to submit additional*  
22 *statements or other information to the board.*

23 (j) *Pursuant to Section 43.8 of the Civil Code, no person shall*  
24 *incur any civil penalty as a result of making any report required*  
25 *by this article.*

26 (k) *No report is required under this section where a report of*  
27 *the action taken is already required under Section 805.*

28 SEC. 48. *Section 2533.13 is added to the Business and*  
29 *Professions Code, to read:*

30 2533.13. *Unless otherwise provided, on or after July 1, 2013,*  
31 *the board shall post on its Internet Web site the following*  
32 *information including the name and license number in its*  
33 *possession, custody, or control regarding every licensee for which*  
34 *the board licenses:*

35 (a) *With regard to the status of every license, whether or not*  
36 *the licensee or former licensee is in good standing, subject to a*  
37 *temporary restraining order, subject to an interim suspension*  
38 *order, subject to a restriction or cease practice ordered pursuant*  
39 *to Section 23 of the Penal Code, or subject to any of the*  
40 *enforcement actions described in Section 803.1.*

1     (b) With regard to prior discipline of a licensee, whether or not  
2     the licensee or former licensee has been subject to discipline by  
3     the board or by the board of another state or jurisdiction, as  
4     described in Section 803.1.

5     (c) Any felony conviction of a licensee reported to the board.

6     (d) All current accusations filed by the Attorney General,  
7     including those accusations that are on appeal. For purposes of  
8     this paragraph, “current accusation” means an accusation that  
9     has not been dismissed, withdrawn, or settled, and has not been  
10    finally decided upon by an administrative law judge and the board  
11    unless an appeal of that decision is pending.

12    (e) Any malpractice judgment or arbitration award imposed  
13    against a licensee and reported to the board.

14    (f) Any hospital disciplinary action imposed against a licensee  
15    that resulted in the termination or revocation of a licensee’s  
16    hospital staff privileges for a medical disciplinary cause or reason  
17    pursuant to Section 2533.11 or 805.

18    (g) Any misdemeanor conviction of a licensee that results in a  
19    disciplinary action or an accusation that is not subsequently  
20    withdrawn or dismissed.

21    (h) Appropriate disclaimers and explanatory statements to  
22    accompany the above information, including an explanation of  
23    what types of information are not disclosed. These disclaimers  
24    and statements shall be developed by the board and shall be  
25    adopted by regulation.

26    (i) The information provided on the Internet shall be in  
27    accordance with the California Public Records Act (Chapter 3.5  
28    (commencing with Section 6250) of Division 7 of Title 1 of the  
29    Government Code) and the Information Practices Act of 1977  
30    (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4  
31    of Division 3 of the Civil Code) and shall comply with the  
32    Department of Consumer Affairs Guidelines for Access to Public  
33    Records.

34    (j) Information provided on the Internet may not include  
35    personal information, unless otherwise provided pursuant to this  
36    chapter, including the home telephone number, date of birth, or  
37    social security number. The information may not include the  
38    licensee’s address, but may include the city and county of the  
39    licensee’s address of record.

1 SEC. 49. Section 2533.14 is added to the Business and  
2 Professions Code, to read:

3 2533.14. (a) Unless otherwise provided, if a licensee possesses  
4 a license or is otherwise authorized to practice in any state other  
5 than California or by any agency of the federal government and  
6 that license or authority is suspended or revoked outright, the  
7 California license of the licensee shall be suspended automatically  
8 for the duration of the suspension or revocation, unless terminated  
9 or rescinded as provided in subdivision (c). The healing arts board  
10 shall notify the licensee of the license suspension and of his or her  
11 right to have the issue of penalty heard as provided in this section.

12 (b) Upon its own motion or for good cause shown, the board  
13 may decline to impose or may set aside the suspension when it  
14 appears to be in the interest of justice to do so, with due regard  
15 to maintaining the integrity of, and confidence in, the specific  
16 healing art.

17 (c) The issue of penalty shall be heard by an administrative law  
18 judge sitting alone or with a panel of the board, in the discretion  
19 of the board. A licensee may request a hearing on the penalty and  
20 that hearing shall be held within 90 days from the date of the  
21 request. If the order suspending or revoking the license or authority  
22 to practice is overturned on appeal, any discipline ordered  
23 pursuant to this section shall automatically cease. Upon a showing  
24 to the administrative law judge or panel by the licensee that the  
25 out-of-state action is not a basis for discipline in California, the  
26 suspension shall be rescinded. If an accusation for permanent  
27 discipline is not filed within 90 days of the suspension imposed  
28 pursuant to this section, the suspension shall automatically  
29 terminate.

30 (d) The record of the proceedings that resulted in the suspension  
31 or revocation of the licensee's out-of-state license or authority to  
32 practice, including a transcript of the testimony therein, may be  
33 received in evidence.

34 (e) This section shall not apply to a licensee who maintains his  
35 or her primary practice in California, as evidenced by having  
36 maintained a practice in this state for not less than one year  
37 immediately preceding the date of suspension or revocation.  
38 Nothing in this section shall preclude a licensee's license from  
39 being suspended pursuant to any other provision of law.

1 (f) *This section shall not apply to a licensee whose license has*  
2 *been surrendered, whose only discipline is a medical staff*  
3 *disciplinary action at a federal hospital and not for medical*  
4 *disciplinary cause or reason as that term is defined in Section 805,*  
5 *or whose revocation or suspension has been stayed, even if the*  
6 *licensee remains subject to terms of probation or other discipline.*

7 (g) *This section shall not apply to a suspension or revocation*  
8 *imposed by a state that is based solely on the prior discipline of*  
9 *the licensee by another state.*

10 (h) *The other provisions of this article setting forth a procedure*  
11 *for the suspension or revocation of a licensee's license or*  
12 *certificate shall not apply to summary suspensions issued pursuant*  
13 *to this section. If a summary suspension has been issued pursuant*  
14 *to this section, the licensee may request that the hearing on the*  
15 *penalty conducted pursuant to subdivision (c) be held at the same*  
16 *time as a hearing on the accusation.*

17 (i) *A board that complies with Section 2310 shall not be subject*  
18 *to the requirements of this section.*

19 SEC. 50. *Section 2570.38 is added to the Business and*  
20 *Professions Code, to read:*

21 2570.38. (a) *The board may delegate to its executive officer*  
22 *the authority to adopt a proposed default decision where an*  
23 *administrative action to revoke a license has been filed and the*  
24 *licensee has failed to file a notice of defense or to appear at the*  
25 *hearing and a proposed default decision revoking the license has*  
26 *been issued.*

27 (b) *The board may delegate to its executive officer the authority*  
28 *to adopt a proposed settlement agreement where an administrative*  
29 *action to revoke a license has been filed by the board and the*  
30 *licensee has agreed to the revocation or surrender of his or her*  
31 *license.*

32 (c) *The executive officer shall, at scheduled board meetings,*  
33 *report to the board the number of proposed default decisions or*  
34 *proposed settlement agreements adopted pursuant to this section.*

35 SEC. 51. *Section 2570.39 is added to the Business and*  
36 *Professions Code, to read:*

37 2570.39. (a) *Notwithstanding Section 11415.60 of the*  
38 *Government Code, the board may enter into a settlement with a*  
39 *licensee or applicant in lieu of the issuance of an accusation or*  
40 *statement of issues against that licensee or applicant, as applicable.*



1     ***(b) The settlement shall include language identifying the factual***  
2 ***basis for the action being taken and a list of the statutes or***  
3 ***regulations violated.***

4     ***(c) A person who enters a settlement pursuant to this section is***  
5 ***not precluded from filing a petition, in the timeframe permitted by***  
6 ***law, to modify the terms of the settlement or petition for early***  
7 ***termination of probation, if probation is part of the settlement.***

8     ***(d) Any settlement against a licensee executed pursuant to this***  
9 ***section shall be considered discipline and a public record and***  
10 ***shall be posted on the applicable board's Internet Web site. Any***  
11 ***settlement against an applicant executed pursuant to this section***  
12 ***shall be considered a public record and shall be posted on the***  
13 ***applicable board's Internet Web site.***

14     ***(e) The executive officer shall, at scheduled board meetings,***  
15 ***report to the board the number of proposed settlement agreements***  
16 ***adopted pursuant to this section.***

17     ***SEC. 52. Section 2570.40 is added to the Business and***  
18 ***Professions Code, to read:***

19     ***2570.40. (a) The license of a licensee shall be suspended***  
20 ***automatically during any time that the licensee is incarcerated***  
21 ***after conviction of a felony, regardless of whether the conviction***  
22 ***has been appealed. The board shall, immediately upon receipt of***  
23 ***the certified copy of the record of conviction, determine whether***  
24 ***the license of the licensee has been automatically suspended by***  
25 ***virtue of his or her incarceration, and if so, the duration of that***  
26 ***suspension. The board shall notify the licensee in writing of the***  
27 ***license suspension and of his or her right to elect to have the issue***  
28 ***of penalty heard as provided in subdivision (d).***

29     ***(b) Upon receipt of the certified copy of the record of conviction,***  
30 ***if after a hearing before an administrative law judge from the***  
31 ***Office of Administrative Hearings it is determined that the felony***  
32 ***for which the licensee was convicted was substantially related to***  
33 ***the qualifications, functions, or duties of a licensee, the board***  
34 ***shall suspend the license until the time for appeal has elapsed, if***  
35 ***no appeal has been taken, or until the judgment of conviction has***  
36 ***been affirmed on appeal or has otherwise become final, and until***  
37 ***further order of the board.***

38     ***(c) Notwithstanding subdivision (b), a conviction of a charge***  
39 ***of violating any federal statute or regulation or any statute or***  
40 ***regulation of this state, regulating dangerous drugs or controlled***

1 substances, or a conviction of Section 187, 261, 262, or 288 of the  
2 Penal Code, shall be conclusively presumed to be substantially  
3 related to the qualifications, functions, or duties of a licensee and  
4 no hearing shall be held on this issue. However, upon its own  
5 motion or for good cause shown, the board may decline to impose  
6 or may set aside the suspension when it appears to be in the interest  
7 of justice to do so, with due regard to maintaining the integrity of,  
8 and confidence in, the practice regulated by the board.

9 (d) (1) Discipline may be ordered against a licensee in  
10 accordance with the statutes and regulations of the board when  
11 the time for appeal has elapsed, the judgment of conviction has  
12 been affirmed on appeal, or an order granting probation is made  
13 suspending the imposition of sentence, irrespective of a subsequent  
14 order under Section 1203.4 of the Penal Code allowing the person  
15 to withdraw his or her plea of guilty and to enter a plea of not  
16 guilty, setting aside the verdict of guilty, or dismissing the  
17 accusation, complaint, information, or indictment.

18 (2) The issue of penalty shall be heard by an administrative law  
19 judge from the Office of Administrative Hearings. The hearing  
20 shall not be had until the judgment of conviction has become final  
21 or, irrespective of a subsequent order under Section 1203.4 of the  
22 Penal Code, an order granting probation has been made  
23 suspending the imposition of sentence; except that a licensee may,  
24 at his or her option, elect to have the issue of penalty decided  
25 before those time periods have elapsed. Where the licensee so  
26 elects, the issue of penalty shall be heard in the manner described  
27 in subdivision (b) at the hearing to determine whether the  
28 conviction was substantially related to the qualifications, functions,  
29 or duties of a licensee. If the conviction of a licensee who has made  
30 this election is overturned on appeal, any discipline ordered  
31 pursuant to this section shall automatically cease. Nothing in this  
32 subdivision shall prohibit the board from pursuing disciplinary  
33 action based on any cause other than the overturned conviction.

34 (e) The record of the proceedings resulting in a conviction,  
35 including a transcript of the testimony in those proceedings, may  
36 be received in evidence.

37 (f) Any other provision of law setting forth a procedure for the  
38 suspension or revocation of a license issued by the board shall not  
39 apply to proceedings conducted pursuant to this section.

1 SEC. 53. Section 2570.41 is added to the Business and  
2 Professions Code, to read:

3 2570.41. (a) Except as otherwise provided, any proposed  
4 decision or decision issued in accordance with the procedures set  
5 forth in Chapter 5 (commencing with Section 11500) of Part 1 of  
6 Division 3 of Title 2 of the Government Code, that contains any  
7 finding of fact that the licensee engaged in any act of sexual contact  
8 with a patient, as defined in subdivision (c) of Section 729, or any  
9 finding that the licensee has committed a sex offense, shall contain  
10 an order revoking the license. The proposed decision shall not  
11 contain any order staying the revocation of the licensee.

12 (b) As used in this section, the term sex offense shall mean any  
13 of the following:

14 (1) Any offense for which registration is required by Section  
15 290 of the Penal Code or a finding that a person committed such  
16 an act.

17 (2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,  
18 or 647(a) or (d) of the Penal Code or a finding that a person  
19 committed such an act.

20 (3) Any attempt to commit any of the offenses specified in this  
21 section.

22 (4) Any offense committed or attempted in any other state or  
23 against the laws of the United States which, if committed or  
24 attempted in this state, would have been punishable as one or more  
25 of the offenses specified in this section.

26 SEC. 54. Section 2570.42 is added to the Business and  
27 Professions Code, to read:

28 2570.42. (a) Except as otherwise provided, with regard to an  
29 individual who is required to register as a sex offender pursuant  
30 to Section 290 of the Penal Code, or the equivalent in another  
31 state or territory, under military law, or under federal law, the  
32 board shall be subject to the following requirements:

33 (1) The board shall deny an application by the individual for  
34 licensure in accordance with the procedures set forth in Chapter  
35 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
36 2 of the Government Code.

37 (2) If the individual is licensed under this chapter, the board  
38 shall promptly revoke the license of the individual in accordance  
39 with the procedures set forth in Chapter 5 (commencing with  
40 Section 11500) of Part 1 of Division 3 of Title 2 of the Government

1 *Code. The board shall not stay the revocation and place the license*  
2 *on probation.*

3 *(3) The board shall not reinstate or reissue the individual's*  
4 *license. The board shall not issue a stay of license denial nor place*  
5 *the license on probation.*

6 *(b) This section shall not apply to any of the following:*

7 *(1) An individual who has been relieved under Section 290.5 of*  
8 *the Penal Code of his or her duty to register as a sex offender, or*  
9 *whose duty to register has otherwise been formally terminated*  
10 *under California law or the law of the jurisdiction that requires*  
11 *his or her registration as a sex offender.*

12 *(2) An individual who is required to register as a sex offender*  
13 *pursuant to Section 290 of the Penal Code solely because of a*  
14 *misdemeanor conviction under Section 314 of the Penal Code.*  
15 *However, nothing in this paragraph shall prohibit the board from*  
16 *exercising its discretion to discipline a licensee under any other*  
17 *provision of state law based upon the licensee's conviction under*  
18 *Section 314 of the Penal Code.*

19 *(3) Any administrative adjudication proceeding under Chapter*  
20 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
21 *2 of the Government Code that is fully adjudicated prior to January*  
22 *1, 2008. A petition for reinstatement of a revoked or surrendered*  
23 *license shall be considered a new proceeding for purposes of this*  
24 *paragraph, and the prohibition against reinstating a license to an*  
25 *individual who is required to register as a sex offender shall be*  
26 *applicable.*

27 *SEC. 55. Section 2570.43 is added to the Business and*  
28 *Professions Code, to read:*

29 *2570.43. (a) Notwithstanding any other provision of law*  
30 *making a communication between a licensee and his or her patients*  
31 *a privileged communication, those provisions shall not apply to*  
32 *investigations or proceedings conducted by the board. Members*  
33 *of the board, deputies, employees, agents, the office of the Attorney*  
34 *General, and representatives of the board shall keep in confidence*  
35 *during the course of investigations the names of any patients whose*  
36 *records are reviewed and may not disclose or reveal those names,*  
37 *except as is necessary during the course of an investigation, unless*  
38 *and until proceedings are instituted. The authority under this*  
39 *subdivision to examine records of patients in the office of a licensee*

1 *is limited to records of patients who have complained to the board*  
2 *about that licensee.*

3 *(b) Notwithstanding any other provision of law, the Attorney*  
4 *General and his or her investigative agents, and the board and its*  
5 *investigators and representatives may inquire into any alleged*  
6 *violation of the laws under the jurisdiction of the board or any*  
7 *other federal or state law, regulation, or rule relevant to the*  
8 *practice regulated by the board, whichever is applicable, and may*  
9 *inspect documents relevant to those investigations in accordance*  
10 *with the following procedures:*

11 *(1) Any document relevant to an investigation may be inspected,*  
12 *and copies may be obtained, where a patient provides written*  
13 *authorization.*

14 *(2) Any document relevant to the business operations of a*  
15 *licensee, and not involving medical records attributable to*  
16 *identifiable patients, may be inspected and copied where relevant*  
17 *to an investigation of a licensee.*

18 *(c) In all cases where documents are inspected or copies of*  
19 *those documents are received, their acquisition or review shall be*  
20 *arranged so as not to unnecessarily disrupt the medical and*  
21 *business operations of the licensee or of the facility where the*  
22 *records are kept or used.*

23 *(d) Where certified documents are lawfully requested from*  
24 *licensees in accordance with this section by the Attorney General*  
25 *or his or her agents or deputies, or investigators of any board, the*  
26 *documents shall be provided within 10 business days of receipt of*  
27 *the request, unless the licensee is unable to provide the certified*  
28 *documents within this time period for good cause, including, but*  
29 *not limited to, physical inability to access the records in the time*  
30 *allowed due to illness or travel. Failure to produce requested*  
31 *certified documents or copies thereof, after being informed of the*  
32 *required deadline, shall constitute unprofessional conduct. A board*  
33 *may use its authority to cite and fine a licensee for any violation*  
34 *of this section. This remedy is in addition to any other authority*  
35 *of the healing arts board to sanction a licensee for a delay in*  
36 *producing requested records.*

37 *(e) Searches conducted of the office or medical facility of any*  
38 *licensee shall not interfere with the recordkeeping format or*  
39 *preservation needs of any licensee necessary for the lawful care*  
40 *of patients.*

1 (f) The licensee shall cooperate with the board in furnishing  
2 information or assistance as may be required, including, but not  
3 limited to, participation in an interview with investigators or  
4 representatives of the healing arts board.

5 (g) This section shall not apply to a licensee who does not have  
6 access to, and control over, certified medical records or other  
7 types of documents that belong to or are controlled by a health  
8 facility or clinic.

9 SEC. 56. Section 2570.44 is added to the Business and  
10 Professions Code, to read:

11 2570.44. (a) (1) Notwithstanding any other provision of law,  
12 a licensee who fails or refuses to comply with a request for the  
13 certified medical records of a patient that is accompanied by that  
14 patient's written authorization for release of records to a board  
15 together with a notice citing this section and describing the  
16 penalties for failure to comply with this section shall be required  
17 to pay to the board a civil penalty of up to one thousand dollars  
18 (\$1,000) per day for each day that the documents have not been  
19 produced after the 15th day, up to ten thousand dollars (\$10,000),  
20 unless the licensee is unable to provide the documents within this  
21 time period for good cause.

22 (2) A health care facility shall comply with a request for the  
23 certified medical records of a patient that is accompanied by that  
24 patient's written authorization for release of records to a board  
25 together with a notice citing this section and describing the  
26 penalties for failure to comply with this section. Failure to provide  
27 the authorizing patient's certified medical records to the board  
28 within 15 days of receiving the request, authorization, and notice  
29 shall subject the health care facility to a civil penalty, payable to  
30 the board, of up to one thousand dollars (\$1,000) per day for each  
31 day that the documents have not been produced after the 15th day,  
32 up to ten thousand dollars (\$10,000), unless the health care facility  
33 is unable to provide the documents within this time period for good  
34 cause. This paragraph shall not require health care facilities to  
35 assist the board in obtaining the patient's authorization. The board  
36 shall pay the reasonable costs of copying the certified medical  
37 records, but shall not be required to make that payment prior to  
38 the production of the medical records.

39 (b) (1) A licensee who fails or refuses to comply with a court  
40 order, issued in the enforcement of a subpoena, mandating the

1 *release of records to the board, shall pay to the board a civil*  
2 *penalty of up to one thousand dollars (\$1,000) per day for each*  
3 *day that the documents have not been produced after the date by*  
4 *which the court order requires the documents to be produced, up*  
5 *to ten thousand dollars (\$10,000), unless it is determined that the*  
6 *order is unlawful or invalid. Any statute of limitations applicable*  
7 *to the filing of an accusation by the board shall be tolled during*  
8 *the period the licensee is out of compliance with the court order*  
9 *and during any related appeals.*

10 (2) *Any licensee who fails or refuses to comply with a court*  
11 *order, issued in the enforcement of a subpoena, mandating the*  
12 *release of records to a board is guilty of a misdemeanor punishable*  
13 *by a fine payable to the board not to exceed five thousand dollars*  
14 *(\$5,000). The fine shall be added to the licensee's renewal fee if*  
15 *it is not paid by the next succeeding renewal date. Any statute of*  
16 *limitations applicable to the filing of an accusation by the board*  
17 *shall be tolled during the period the licensee is out of compliance*  
18 *with the court order and during any related appeals.*

19 (3) *A health care facility that fails or refuses to comply with a*  
20 *court order, issued in the enforcement of a subpoena, mandating*  
21 *the release of patient records to the board, that is accompanied*  
22 *by a notice citing this section and describing the penalties for*  
23 *failure to comply with this section, shall pay to the board a civil*  
24 *penalty of up to one thousand dollars (\$1,000) per day for each*  
25 *day that the documents have not been produced, up to ten thousand*  
26 *dollars (\$10,000), after the date by which the court order requires*  
27 *the documents to be produced, unless it is determined that the*  
28 *order is unlawful or invalid. Any statute of limitations applicable*  
29 *to the filing of an accusation by the board against a licensee shall*  
30 *be tolled during the period the health care facility is out of*  
31 *compliance with the court order and during any related appeals.*

32 (4) *Any health care facility that fails or refuses to comply with*  
33 *a court order, issued in the enforcement of a subpoena, mandating*  
34 *the release of records to the board is guilty of a misdemeanor*  
35 *punishable by a fine payable to the board not to exceed five*  
36 *thousand dollars (\$5,000). Any statute of limitations applicable*  
37 *to the filing of an accusation by the healing arts board against a*  
38 *licensee shall be tolled during the period the health care facility*  
39 *is out of compliance with the court order and during any related*  
40 *appeals.*

1 (c) Multiple acts by a licensee in violation of subdivision (b)  
2 shall be punishable by a fine not to exceed five thousand dollars  
3 (\$5,000) or by imprisonment in a county jail not exceeding six  
4 months, or by both that fine and imprisonment. Multiple acts by  
5 a health care facility in violation of subdivision (b) shall be  
6 punishable by a fine not to exceed five thousand dollars (\$5,000),  
7 shall be reported to the State Department of Public Health, and  
8 shall be considered as grounds for disciplinary action with respect  
9 to licensure, including suspension or revocation of the license or  
10 certificate.

11 (d) A failure or refusal of a licensee to comply with a court  
12 order, issued in the enforcement of a subpoena, mandating the  
13 release of records to the healing arts board constitutes  
14 unprofessional conduct and is grounds for suspension or revocation  
15 of his or her license.

16 (e) Imposition of the civil penalties authorized by this section  
17 shall be in accordance with the Administrative Procedure Act  
18 (Chapter 5 (commencing with Section 11500) of Division 3 of Title  
19 2 of the Government Code). Any civil penalties paid to, or received  
20 by, the board pursuant to this section shall be deposited into the  
21 fund administered by the board.

22 (f) For purposes of this section, “certified medical records”  
23 means a copy of the patient’s medical records authenticated by  
24 the licensee or health care facility, as appropriate, on a form  
25 prescribed by the licensee’s board.

26 (g) For purposes of this section, a “health care facility” means  
27 a clinic or health facility licensed or exempt from licensure  
28 pursuant to Division 2 (commencing with Section 1200) of the  
29 Health and Safety Code.

30 (h) If a board complies with Section 1684.1, 2225.5, or 2969,  
31 that board shall not be subject to the requirements of this section.

32 (i) This section shall not apply to a licensee who does not have  
33 access to, or control over, certified medical records or other types  
34 of documents that belong to or are controlled by a health facility  
35 or clinic.

36 SEC. 57. Section 2570.45 is added to the Business and  
37 Professions Code, to read:

38 2570.45. (a) Notwithstanding any other provision of law, any  
39 employer of a licensee shall report to the board the suspension or  
40 termination for cause, or any resignation in lieu of suspension or



1 *termination for cause, of any licensee in its employ within 15*  
2 *business days. The report shall not be made until after the*  
3 *conclusion of the review process specified in Section 52.3 of Title*  
4 *2 of the California Code of Regulations and Skelly v. State*  
5 *Personnel Bd. (1975) 15 Cal.3d 194, for public employees. This*  
6 *required reporting shall not constitute a waiver of confidentiality*  
7 *of medical records. The information reported or disclosed shall*  
8 *be kept confidential except as provided in subdivision (c) of Section*  
9 *800 and shall not be subject to discovery in civil cases.*

10 *(b) The information to be reported by the employer shall include*  
11 *the name and license number of the licensee involved, a*  
12 *description of the facts and circumstances of the suspension or*  
13 *termination for cause, any resignation in lieu of suspension or*  
14 *termination for cause, and any other relevant information deemed*  
15 *appropriate by the employer.*

16 *(c) The board shall be entitled to inspect and copy the following*  
17 *documents in the record for any suspension or termination for*  
18 *cause, or any resignation in lieu of suspension or termination for*  
19 *cause, resulting in action that is required to be reported pursuant*  
20 *to this section:*

21 *(1) Any statement for suspension or termination of the licensee.*

22 *(2) Any document or exhibits relevant to the suspension or*  
23 *termination.*

24 *(d) If, during the investigation by the board of the cause for the*  
25 *termination or suspension or resignation of the licensee, it is found*  
26 *that there has been a violation of existing state or federal law, the*  
27 *board shall report the violation to the appropriate agency.*

28 *(e) For purposes of this section, "suspension or termination for*  
29 *cause" or "resignation in lieu of suspension or termination for*  
30 *cause" is defined as resignation, suspension, or termination from*  
31 *employment for any of the following reasons:*

32 *(1) Use of controlled substances or alcohol to the extent that it*  
33 *impairs the licensee's ability to safely practice.*

34 *(2) Unlawful sale of a controlled substance or other prescription*  
35 *items.*

36 *(3) Patient or client abuse, neglect, physical harm, or sexual*  
37 *contact with a patient or client.*

38 *(4) Gross negligence or incompetence.*

39 *(5) Theft from a patient or client, any other employee, or the*  
40 *employer.*

1     (f) As used in this section, the following definitions apply:

2     (1) “Gross negligence” means a substantial departure from the  
3     standard of care, which, under similar circumstances, would have  
4     ordinarily been exercised by a competent licensee, and which has  
5     or could have resulted in harm to the consumer. An exercise of so  
6     slight a degree of care as to justify the belief that there was a  
7     conscious disregard or indifference for the health, safety, or  
8     welfare of the consumer shall be considered a substantial departure  
9     from the standard of care.

10    (2) “Incompetence” means the lack of possession of, and the  
11    failure to exercise that degree of learning, skill, care, and  
12    experience ordinarily possessed by, a responsible licensee.

13    (3) “Willful” means a knowing and intentional violation of a  
14    known legal duty.

15    (g) (1) Willful failure of an employer to make a report required  
16    by this section is punishable by an administrative fine not to exceed  
17    one hundred thousand dollars (\$100,000) per violation.

18    (2) Any failure of an employer, other than willful failure, to  
19    make a report required by this section is punishable by an  
20    administrative fine not to exceed fifty thousand dollars (\$50,000).

21    (h) The board shall investigate the circumstances underlying  
22    any report received pursuant to this section within 30 days to  
23    determine if an interim suspension order or temporary restraining  
24    order should be issued. The board shall otherwise provide timely  
25    disposition of the reports received pursuant to this section.

26    (i) The board shall send to the licentiate a copy of the report  
27    along with the reasons for the filing of the report and notice  
28    advising the licentiate of his or her right to submit additional  
29    statements or other information to the board.

30    (j) Pursuant to Section 43.8 of the Civil Code, no person shall  
31    incur any civil penalty as a result of making any report required  
32    by this article.

33    (k) No report is required under this section where a report of  
34    the action taken is already required under Section 805.

35    SEC. 58. Section 2570.46 is added to the Business and  
36    Professions Code, to read:

37    2570.46. Unless otherwise provided, on or after July 1, 2013,  
38    the board shall post on its Internet Web site the following  
39    information, including the name and license number, in its

1 *possession, custody, or control regarding every licensee for which*  
2 *the board licenses:*

3 *(a) With regard to the status of every license, whether or not*  
4 *the licensee or former licensee is in good standing, subject to a*  
5 *temporary restraining order, subject to an interim suspension*  
6 *order, subject to a restriction or cease practice ordered pursuant*  
7 *to Section 23 of the Penal Code, or subject to any of the*  
8 *enforcement actions described in Section 803.1.*

9 *(b) With regard to prior discipline of a licensee, whether or not*  
10 *the licensee or former licensee has been subject to discipline by*  
11 *the board or by the board of another state or jurisdiction, as*  
12 *described in Section 803.1.*

13 *(c) Any felony conviction of a licensee reported to the board.*

14 *(d) All current accusations filed by the Attorney General,*  
15 *including those accusations that are on appeal. For purposes of*  
16 *this paragraph, “current accusation” means an accusation that*  
17 *has not been dismissed, withdrawn, or settled, and has not been*  
18 *finally decided upon by an administrative law judge and the board*  
19 *unless an appeal of that decision is pending.*

20 *(e) Any malpractice judgment or arbitration award imposed*  
21 *against a licensee and reported to the healing arts board.*

22 *(f) Any hospital disciplinary action imposed against a licensee*  
23 *that resulted in the termination or revocation of a licensee’s*  
24 *hospital staff privileges for a medical disciplinary cause or reason*  
25 *pursuant to Section 2570.44 or 805.*

26 *(g) Any misdemeanor conviction of a licensee that results in a*  
27 *disciplinary action or an accusation that is not subsequently*  
28 *withdrawn or dismissed.*

29 *(h) Appropriate disclaimers and explanatory statements to*  
30 *accompany the above information, including an explanation of*  
31 *what types of information are not disclosed. These disclaimers*  
32 *and statements shall be developed by the board and shall be*  
33 *adopted by regulation.*

34 *(i) The information provided on the Internet shall be in*  
35 *accordance with the California Public Records Act (Chapter 3.5*  
36 *(commencing with Section 6250) of Division 7 of Title 1 of the*  
37 *Government Code) and the Information Practices Act of 1977*  
38 *(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4*  
39 *of Division 3 of the Civil Code) and shall comply with the*

1 *Department of Consumer Affairs Guidelines for Access to Public*  
2 *Records.*

3 *(j) Information provided on the Internet may not include*  
4 *personal information, unless otherwise provided pursuant to this*  
5 *chapter, including the home telephone number, date of birth, or*  
6 *social security number. The information may not include the*  
7 *licensee's address, but may include the city and county of the*  
8 *licensee's address of record.*

9 *SEC. 59. Section 2570.47 is added to the Business and*  
10 *Professions Code, to read:*

11 *2570.47. (a) Unless otherwise provided, if a licensee possesses*  
12 *a license or is otherwise authorized to practice in any state other*  
13 *than California or by any agency of the federal government and*  
14 *that license or authority is suspended or revoked outright, the*  
15 *California license of the licensee shall be suspended automatically*  
16 *for the duration of the suspension or revocation, unless terminated*  
17 *or rescinded as provided in subdivision (c). The board shall notify*  
18 *the licensee of the license suspension and of his or her right to*  
19 *have the issue of penalty heard as provided in this section.*

20 *(b) Upon its own motion or for good cause shown, the board*  
21 *may decline to impose or may set aside the suspension when it*  
22 *appears to be in the interest of justice to do so, with due regard*  
23 *to maintaining the integrity of, and confidence in, the specific*  
24 *healing art.*

25 *(c) The issue of penalty shall be heard by an administrative law*  
26 *judge sitting alone or with a panel of the board, in the discretion*  
27 *of the board. A licensee may request a hearing on the penalty and*  
28 *that hearing shall be held within 90 days from the date of the*  
29 *request. If the order suspending or revoking the license or authority*  
30 *to practice is overturned on appeal, any discipline ordered*  
31 *pursuant to this section shall automatically cease. Upon a showing*  
32 *to the administrative law judge or panel by the licensee that the*  
33 *out-of-state action is not a basis for discipline in California, the*  
34 *suspension shall be rescinded. If an accusation for permanent*  
35 *discipline is not filed within 90 days of the suspension imposed*  
36 *pursuant to this section, the suspension shall automatically*  
37 *terminate.*

38 *(d) The record of the proceedings that resulted in the suspension*  
39 *or revocation of the licensee's out-of-state license or authority to*

1 *practice, including a transcript of the testimony therein, may be*  
2 *received in evidence.*

3 *(e) This section shall not apply to a licensee who maintains his*  
4 *or her primary practice in California, as evidenced by having*  
5 *maintained a practice in this state for not less than one year*  
6 *immediately preceding the date of suspension or revocation.*  
7 *Nothing in this section shall preclude a licensee's license from*  
8 *being suspended pursuant to any other provision of law.*

9 *(f) This section shall not apply to a licensee whose license has*  
10 *been surrendered, whose only discipline is a medical staff*  
11 *disciplinary action at a federal hospital and not for medical*  
12 *disciplinary cause or reason as that term is defined in Section 805,*  
13 *or whose revocation or suspension has been stayed, even if the*  
14 *licensee remains subject to terms of probation or other discipline.*

15 *(g) This section shall not apply to a suspension or revocation*  
16 *imposed by a state that is based solely on the prior discipline of*  
17 *the licensee by another state.*

18 *(h) The other provisions of this article setting forth a procedure*  
19 *for the suspension or revocation of a licensee's license or*  
20 *certificate shall not apply to summary suspensions issued pursuant*  
21 *to this section. If a summary suspension has been issued pursuant*  
22 *to this section, the licensee may request that the hearing on the*  
23 *penalty conducted pursuant to subdivision (c) be held at the same*  
24 *time as a hearing on the accusation.*

25 *(i) A board that complies with Section 2310 shall not be subject*  
26 *to the requirements of this section.*

27 *SEC. 60. Section 2608.5 of the Business and Professions Code*  
28 *is repealed.*

29 ~~2608.5. Each member of the board, or any licensed physical~~  
30 ~~therapist appointed by the board, may inspect, or require reports~~  
31 ~~from, a general or specialized hospital or any other facility~~  
32 ~~providing physical therapy care, treatment or services and the~~  
33 ~~physical therapy staff thereof, with respect to the physical therapy~~  
34 ~~care, treatment, services, or facilities provided therein, and may~~  
35 ~~inspect physical therapy patient records with respect to the care,~~  
36 ~~treatment, services, or facilities. The authority to make inspections~~  
37 ~~and to require reports as provided by this section shall not be~~  
38 ~~delegated by a member of the board to any person other than a~~  
39 ~~physical therapist and shall be subject to the restrictions against~~  
40 ~~disclosure described in Section 2263.~~

1     *SEC. 61. Section 2660.5 of the Business and Professions Code*  
2     *is repealed.*

3     ~~2660.5. The board shall deny a physical therapist license or~~  
4     ~~physical therapist assistant approval to an applicant who is required~~  
5     ~~to register pursuant to Section 290 of the Penal Code. This section~~  
6     ~~does not apply to an applicant who is required to register as a sex~~  
7     ~~offender pursuant to Section 290 of the Penal Code solely because~~  
8     ~~of a misdemeanor conviction under Section 314 of the Penal Code.~~

9     *SEC. 62. Section 2661.8 is added to the Business and*  
10    *Professions Code, to read:*

11    2661.8. (a) *The board may delegate to its executive officer the*  
12    *authority to adopt a proposed default decision where an*  
13    *administrative action to revoke a license has been filed and the*  
14    *licensee has failed to file a notice of defense or to appear at the*  
15    *hearing and a proposed default decision revoking the license has*  
16    *been issued.*

17    (b) *The board may delegate to its executive officer the authority*  
18    *to adopt a proposed settlement agreement where an administrative*  
19    *action to revoke a license has been filed by the board and the*  
20    *licensee has agreed to the revocation or surrender of his or her*  
21    *license.*

22    (c) *The executive officer shall, at scheduled board meetings,*  
23    *report to the board the number of proposed default decisions or*  
24    *proposed settlement agreements adopted pursuant to this section.*

25    *SEC. 63. Section 2661.9 is added to the Business and*  
26    *Professions Code, to read:*

27    2661.9. (a) *Notwithstanding Section 11415.60 of the*  
28    *Government Code, the board may enter into a settlement with a*  
29    *licensee or applicant in lieu of the issuance of an accusation or*  
30    *statement of issues against that licensee or applicant, as applicable.*

31    (b) *The settlement shall include language identifying the factual*  
32    *basis for the action being taken and a list of the statutes or*  
33    *regulations violated.*

34    (c) *A person who enters a settlement pursuant to this section is*  
35    *not precluded from filing a petition, in the timeframe permitted by*  
36    *law, to modify the terms of the settlement or petition for early*  
37    *termination of probation, if probation is part of the settlement.*

38    (d) *Any settlement against a licensee executed pursuant to this*  
39    *section shall be considered discipline and a public record and*  
40    *shall be posted on the applicable board's Internet Web site. Any*

1 *settlement against an applicant executed pursuant to this section*  
2 *shall be considered a public record and shall be posted on the*  
3 *applicable board's Internet Web site.*

4 *(e) The executive officer shall, at scheduled board meetings,*  
5 *report to the board the number of proposed settlement agreements*  
6 *adopted pursuant to this section.*

7 *SEC. 64. Section 2661.10 is added to the Business and*  
8 *Professions Code, to read:*

9 *2661.10. (a) The license of a licensee shall be suspended*  
10 *automatically during any time that the licensee is incarcerated*  
11 *after conviction of a felony, regardless of whether the conviction*  
12 *has been appealed. The board shall, immediately upon receipt of*  
13 *the certified copy of the record of conviction, determine whether*  
14 *the license of the licensee has been automatically suspended by*  
15 *virtue of his or her incarceration, and if so, the duration of that*  
16 *suspension. The board shall notify the licensee in writing of the*  
17 *license suspension and of his or her right to elect to have the issue*  
18 *of penalty heard as provided in subdivision (d).*

19 *(b) Upon receipt of the certified copy of the record of conviction,*  
20 *if after a hearing before an administrative law judge from the*  
21 *Office of Administrative Hearings it is determined that the felony*  
22 *for which the licensee was convicted was substantially related to*  
23 *the qualifications, functions, or duties of a licensee, the board*  
24 *shall suspend the license until the time for appeal has elapsed, if*  
25 *no appeal has been taken, or until the judgment of conviction has*  
26 *been affirmed on appeal or has otherwise become final, and until*  
27 *further order of the board.*

28 *(c) Notwithstanding subdivision (b), a conviction of a charge*  
29 *of violating any federal statute or regulation or any statute or*  
30 *regulation of this state, regulating dangerous drugs or controlled*  
31 *substances, or a conviction of Section 187, 261, 262, or 288 of the*  
32 *Penal Code, shall be conclusively presumed to be substantially*  
33 *related to the qualifications, functions, or duties of a licensee and*  
34 *no hearing shall be held on this issue. However, upon its own*  
35 *motion or for good cause shown, the board may decline to impose*  
36 *or may set aside the suspension when it appears to be in the interest*  
37 *of justice to do so, with due regard to maintaining the integrity of,*  
38 *and confidence in, the practice regulated by the board.*

39 *(d) (1) Discipline may be ordered against a licensee in*  
40 *accordance with the statutes and regulations of the board when*

1 *the time for appeal has elapsed, the judgment of conviction has*  
2 *been affirmed on appeal, or an order granting probation is made*  
3 *suspending the imposition of sentence, irrespective of a subsequent*  
4 *order under Section 1203.4 of the Penal Code allowing the person*  
5 *to withdraw his or her plea of guilty and to enter a plea of not*  
6 *guilty, setting aside the verdict of guilty, or dismissing the*  
7 *accusation, complaint, information, or indictment.*

8 (2) *The issue of penalty shall be heard by an administrative law*  
9 *judge from the Office of Administrative Hearings. The hearing*  
10 *shall not be had until the judgment of conviction has become final*  
11 *or, irrespective of a subsequent order under Section 1203.4 of the*  
12 *Penal Code, an order granting probation has been made*  
13 *suspending the imposition of sentence; except that a licensee may,*  
14 *at his or her option, elect to have the issue of penalty decided*  
15 *before those time periods have elapsed. Where the licensee so*  
16 *elects, the issue of penalty shall be heard in the manner described*  
17 *in subdivision (b) at the hearing to determine whether the*  
18 *conviction was substantially related to the qualifications, functions,*  
19 *or duties of a licensee. If the conviction of a licensee who has made*  
20 *this election is overturned on appeal, any discipline ordered*  
21 *pursuant to this section shall automatically cease. Nothing in this*  
22 *subdivision shall prohibit the board from pursuing disciplinary*  
23 *action based on any cause other than the overturned conviction.*

24 (e) *The record of the proceedings resulting in a conviction,*  
25 *including a transcript of the testimony in those proceedings, may*  
26 *be received in evidence.*

27 (f) *Any other provision of law setting forth a procedure for the*  
28 *suspension or revocation of a license issued by the board shall not*  
29 *apply to proceedings conducted pursuant to this section.*

30 SEC. 65. *Section 2661.11 is added to the Business and*  
31 *Professions Code, to read:*

32 2661.11. (a) *Except as otherwise provided, any proposed*  
33 *decision or decision issued in accordance with the procedures set*  
34 *forth in Chapter 5 (commencing with Section 11500) of Part 1 of*  
35 *Division 3 of Title 2 of the Government Code, that contains any*  
36 *finding of fact that the licensee engaged in any act of sexual contact*  
37 *with a patient, as defined in subdivision (c) of Section 729, or any*  
38 *finding that the licensee has committed a sex offense, shall contain*  
39 *an order revoking the license. The proposed decision shall not*  
40 *contain any order staying the revocation of the licensee.*



1     ***(b) As used in this section, the term sex offense shall mean any***  
2 ***of the following:***

3     ***(1) Any offense for which registration is required by Section***  
4 ***290 of the Penal Code or a finding that a person committed such***  
5 ***an act.***

6     ***(2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,***  
7 ***or 647(a) or (d) of the Penal Code or a finding that a person***  
8 ***committed such an act.***

9     ***(3) Any attempt to commit any of the offenses specified in this***  
10 ***section.***

11     ***(4) Any offense committed or attempted in any other state or***  
12 ***against the laws of the United States which, if committed or***  
13 ***attempted in this state, would have been punishable as one or more***  
14 ***of the offenses specified in this section.***

15     ***SEC. 66. Section 2661.12 is added to the Business and***  
16 ***Professions Code, to read:***

17     ***2661.12. (a) Except as otherwise provided, with regard to an***  
18 ***individual who is required to register as a sex offender pursuant***  
19 ***to Section 290 of the Penal Code, or the equivalent in another***  
20 ***state or territory, under military law, or under federal law, the***  
21 ***board shall be subject to the following requirements:***

22     ***(1) The board shall deny an application by the individual for***  
23 ***licensure in accordance with the procedures set forth in Chapter***  
24 ***5 (commencing with Section 11500) of Part 1 of Division 3 of Title***  
25 ***2 of the Government Code.***

26     ***(2) If the individual is licensed under this chapter, the board***  
27 ***shall promptly revoke the license of the individual in accordance***  
28 ***with the procedures set forth in Chapter 5 (commencing with***  
29 ***Section 11500) of Part 1 of Division 3 of Title 2 of the Government***  
30 ***Code. The board shall not stay the revocation and place the license***  
31 ***on probation.***

32     ***(3) The board shall not reinstate or reissue the individual's***  
33 ***license. The board shall not issue a stay of license denial nor place***  
34 ***the license on probation.***

35     ***(b) This section shall not apply to any of the following:***

36     ***(1) An individual who has been relieved under Section 290.5 of***  
37 ***the Penal Code of his or her duty to register as a sex offender, or***  
38 ***whose duty to register has otherwise been formally terminated***  
39 ***under California law or the law of the jurisdiction that requires***  
40 ***his or her registration as a sex offender.***

1     (2) *An individual who is required to register as a sex offender*  
2 *pursuant to Section 290 of the Penal Code solely because of a*  
3 *misdemeanor conviction under Section 314 of the Penal Code.*  
4 *However, nothing in this paragraph shall prohibit the board from*  
5 *exercising its discretion to discipline a licensee under any other*  
6 *provision of state law based upon the licensee's conviction under*  
7 *Section 314 of the Penal Code.*

8     (3) *Any administrative adjudication proceeding under Chapter*  
9 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
10 *2 of the Government Code that is fully adjudicated prior to January*  
11 *1, 2008. A petition for reinstatement of a revoked or surrendered*  
12 *license shall be considered a new proceeding for purposes of this*  
13 *paragraph, and the prohibition against reinstating a license to an*  
14 *individual who is required to register as a sex offender shall be*  
15 *applicable.*

16     SEC. 67. *Section 2661.13 is added to the Business and*  
17 *Professions Code, to read:*

18     2661.13. (a) *Notwithstanding any other provision of law*  
19 *making a communication between a licensee and his or her patients*  
20 *a privileged communication, those provisions shall not apply to*  
21 *investigations or proceedings conducted by the board. Members*  
22 *of the board, deputies, employees, agents, the office of the Attorney*  
23 *General, and representatives of the board shall keep in confidence*  
24 *during the course of investigations the names of any patients whose*  
25 *records are reviewed and may not disclose or reveal those names,*  
26 *except as is necessary during the course of an investigation, unless*  
27 *and until proceedings are instituted. The authority under this*  
28 *subdivision to examine records of patients in the office of a licensee*  
29 *is limited to records of patients who have complained to the board*  
30 *about that licensee.*

31     (b) *Notwithstanding any other provision of law, the Attorney*  
32 *General and his or her investigative agents, and the board and its*  
33 *investigators and representatives may inquire into any alleged*  
34 *violation of the laws under the jurisdiction of the board or any*  
35 *other federal or state law, regulation, or rule relevant to the*  
36 *practice regulated by the board, whichever is applicable, and may*  
37 *inspect documents relevant to those investigations in accordance*  
38 *with the following procedures:*

1     (1) Any document relevant to an investigation may be inspected,  
2     and copies may be obtained, where a patient provides written  
3     authorization.

4     (2) Any document relevant to the business operations of a  
5     licensee, and not involving medical records attributable to  
6     identifiable patients, may be inspected and copied where relevant  
7     to an investigation of a licensee.

8     (c) In all cases where documents are inspected or copies of  
9     those documents are received, their acquisition or review shall be  
10    arranged so as not to unnecessarily disrupt the medical and  
11    business operations of the licensee or of the facility where the  
12    records are kept or used.

13    (d) Where certified documents are lawfully requested from  
14    licensees in accordance with this section by the Attorney General  
15    or his or her agents or deputies, or investigators of any board, the  
16    documents shall be provided within 10 business days of receipt of  
17    the request, unless the licensee is unable to provide the certified  
18    documents within this time period for good cause, including, but  
19    not limited to, physical inability to access the records in the time  
20    allowed due to illness or travel. Failure to produce requested  
21    certified documents or copies thereof, after being informed of the  
22    required deadline, shall constitute unprofessional conduct. A board  
23    may use its authority to cite and fine a licensee for any violation  
24    of this section. This remedy is in addition to any other authority  
25    of the board to sanction a licensee for a delay in producing  
26    requested records.

27    (e) Searches conducted of the office or medical facility of any  
28    licensee shall not interfere with the recordkeeping format or  
29    preservation needs of any licensee necessary for the lawful care  
30    of patients.

31    (f) The licensee shall cooperate with the board in furnishing  
32    information or assistance as may be required, including, but not  
33    limited to, participation in an interview with investigators or  
34    representatives of the board.

35    (g) This section shall not apply to a licensee who does not have  
36    access to, and control over, certified medical records or other  
37    types of documents that belong to or are controlled by a health  
38    facility or clinic.

39    SEC. 68. Section 2661.14 is added to the Business and  
40    Professions Code, to read:

1     2661.14. (a) (1) Notwithstanding any other provision of law,  
2     a licensee who fails or refuses to comply with a request for the  
3     certified medical records of a patient that is accompanied by that  
4     patient's written authorization for release of records to a board  
5     together with a notice citing this section and describing the  
6     penalties for failure to comply with this section shall be required  
7     to pay to the board a civil penalty of up to one thousand dollars  
8     (\$1,000) per day for each day that the documents have not been  
9     produced after the 15th day, up to ten thousand dollars (\$10,000),  
10    unless the licensee is unable to provide the documents within this  
11    time period for good cause.

12    (2) A health care facility shall comply with a request for the  
13    certified medical records of a patient that is accompanied by that  
14    patient's written authorization for release of records to a board  
15    together with a notice citing this section and describing the  
16    penalties for failure to comply with this section. Failure to provide  
17    the authorizing patient's certified medical records to the board  
18    within 15 days of receiving the request, authorization, and notice  
19    shall subject the health care facility to a civil penalty, payable to  
20    the board, of up to one thousand dollars (\$1,000) per day for each  
21    day that the documents have not been produced after the 15th day,  
22    up to ten thousand dollars (\$10,000), unless the health care facility  
23    is unable to provide the documents within this time period for good  
24    cause. This paragraph shall not require health care facilities to  
25    assist the board in obtaining the patient's authorization. The board  
26    shall pay the reasonable costs of copying the certified medical  
27    records, but shall not be required to make that payment prior to  
28    the production of the medical records.

29    (b) (1) A licensee who fails or refuses to comply with a court  
30    order, issued in the enforcement of a subpoena, mandating the  
31    release of records to the board, shall pay to the board a civil  
32    penalty of up to one thousand dollars (\$1,000) per day for each  
33    day that the documents have not been produced after the date by  
34    which the court order requires the documents to be produced, up  
35    to ten thousand dollars (\$10,000), unless it is determined that the  
36    order is unlawful or invalid. Any statute of limitations applicable  
37    to the filing of an accusation by the board shall be tolled during  
38    the period the licensee is out of compliance with the court order  
39    and during any related appeals.

1     (2) Any licensee who fails or refuses to comply with a court  
2 order, issued in the enforcement of a subpoena, mandating the  
3 release of records to a board is guilty of a misdemeanor punishable  
4 by a fine payable to the board not to exceed five thousand dollars  
5 (\$5,000). The fine shall be added to the licensee's renewal fee if  
6 it is not paid by the next succeeding renewal date. Any statute of  
7 limitations applicable to the filing of an accusation by the board  
8 shall be tolled during the period the licensee is out of compliance  
9 with the court order and during any related appeals.

10    (3) A health care facility that fails or refuses to comply with a  
11 court order, issued in the enforcement of a subpoena, mandating  
12 the release of patient records to the board, that is accompanied  
13 by a notice citing this section and describing the penalties for  
14 failure to comply with this section, shall pay to the board a civil  
15 penalty of up to one thousand dollars (\$1,000) per day for each  
16 day that the documents have not been produced, up to ten thousand  
17 dollars (\$10,000), after the date by which the court order requires  
18 the documents to be produced, unless it is determined that the  
19 order is unlawful or invalid. Any statute of limitations applicable  
20 to the filing of an accusation by the board against a licensee shall  
21 be tolled during the period the health care facility is out of  
22 compliance with the court order and during any related appeals.

23    (4) Any health care facility that fails or refuses to comply with  
24 a court order, issued in the enforcement of a subpoena, mandating  
25 the release of records to the board is guilty of a misdemeanor  
26 punishable by a fine payable to the board not to exceed five  
27 thousand dollars (\$5,000). Any statute of limitations applicable  
28 to the filing of an accusation by the board against a licensee shall  
29 be tolled during the period the health care facility is out of  
30 compliance with the court order and during any related appeals.

31    (c) Multiple acts by a licensee in violation of subdivision (b)  
32 shall be punishable by a fine not to exceed five thousand dollars  
33 (\$5,000) or by imprisonment in a county jail not exceeding six  
34 months, or by both that fine and imprisonment. Multiple acts by  
35 a health care facility in violation of subdivision (b) shall be  
36 punishable by a fine not to exceed five thousand dollars (\$5,000),  
37 shall be reported to the State Department of Public Health, and  
38 shall be considered as grounds for disciplinary action with respect  
39 to licensure, including suspension or revocation of the license or  
40 certificate.

1     (d) A failure or refusal of a licensee to comply with a court  
2     order, issued in the enforcement of a subpoena, mandating the  
3     release of records to the board constitutes unprofessional conduct  
4     and is grounds for suspension or revocation of his or her license.

5     (e) Imposition of the civil penalties authorized by this section  
6     shall be in accordance with the Administrative Procedure Act  
7     (Chapter 5 (commencing with Section 11500) of Division 3 of Title  
8     2 of the Government Code). Any civil penalties paid to, or received  
9     by, the board pursuant to this section shall be deposited into the  
10    fund administered by the board.

11    (f) For purposes of this section, “certified medical records”  
12    means a copy of the patient’s medical records authenticated by  
13    the licensee or health care facility, as appropriate, on a form  
14    prescribed by the licensee’s board.

15    (g) For purposes of this section, a “health care facility” means  
16    a clinic or health facility licensed or exempt from licensure  
17    pursuant to Division 2 (commencing with Section 1200) of the  
18    Health and Safety Code.

19    (h) If a board complies with Section 1684.1, 2225.5, or 2969,  
20    that board shall not be subject to the requirements of this section.

21    (i) This section shall not apply to a licensee who does not have  
22    access to, or control over, certified medical records or other types  
23    of documents that belong to or are controlled by a health facility  
24    or clinic.

25    SEC. 69. Section 2661.15 is added to the Business and  
26    Professions Code, to read:

27    2661.15. (a) Notwithstanding any other provision of law, any  
28    employer of a licensee shall report to the board the suspension or  
29    termination for cause, or any resignation in lieu of suspension or  
30    termination for cause, of any licensee in its employ within 15  
31    business days. The report shall not be made until after the  
32    conclusion of the review process specified in Section 52.3 of Title  
33    2 of the California Code of Regulations and *Skelly v. State*  
34    *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This  
35    required reporting shall not constitute a waiver of confidentiality  
36    of medical records. The information reported or disclosed shall  
37    be kept confidential except as provided in subdivision (c) of Section  
38    800 and shall not be subject to discovery in civil cases.

39    (b) The information to be reported by the employer shall include  
40    the name and license number of the licensee involved, a

1 *description of the facts and circumstances of the suspension or*  
2 *termination for cause, any resignation in lieu of suspension or*  
3 *termination for cause, and any other relevant information deemed*  
4 *appropriate by the employer.*

5 *(c) The board shall be entitled to inspect and copy the following*  
6 *documents in the record for any suspension or termination for*  
7 *cause, or any resignation in lieu of suspension or termination for*  
8 *cause, resulting in action that is required to be reported pursuant*  
9 *to this section:*

10 *(1) Any statement for suspension or termination of the licensee.*

11 *(2) Any document or exhibits relevant to the suspension or*  
12 *termination.*

13 *(d) If, during the investigation by the board of the cause for the*  
14 *termination or suspension or resignation of the licensee, it is found*  
15 *that there has been a violation of existing state or federal law, the*  
16 *board shall report the violation to the appropriate agency.*

17 *(e) For purposes of this section, “suspension or termination for*  
18 *cause” or “resignation in lieu of suspension or termination for*  
19 *cause” is defined as resignation, suspension, or termination from*  
20 *employment for any of the following reasons:*

21 *(1) Use of controlled substances or alcohol to the extent that it*  
22 *impairs the licensee’s ability to safely practice.*

23 *(2) Unlawful sale of a controlled substance or other prescription*  
24 *items.*

25 *(3) Patient or client abuse, neglect, physical harm, or sexual*  
26 *contact with a patient or client.*

27 *(4) Gross negligence or incompetence.*

28 *(5) Theft from a patient or client, any other employee, or the*  
29 *employer.*

30 *(f) As used in this section, the following definitions apply:*

31 *(1) “Gross negligence” means a substantial departure from the*  
32 *standard of care, which, under similar circumstances, would have*  
33 *ordinarily been exercised by a competent licensee, and which has*  
34 *or could have resulted in harm to the consumer. An exercise of so*  
35 *slight a degree of care as to justify the belief that there was a*  
36 *conscious disregard or indifference for the health, safety, or*  
37 *welfare of the consumer shall be considered a substantial departure*  
38 *from the standard of care.*

1 (2) “Incompetence” means the lack of possession of, and the  
2 failure to exercise that degree of learning, skill, care, and  
3 experience ordinarily possessed by, a responsible licensee.

4 (3) “Willful” means a knowing and intentional violation of a  
5 known legal duty.

6 (g) (1) Willful failure of an employer to make a report required  
7 by this section is punishable by an administrative fine not to exceed  
8 one hundred thousand dollars (\$100,000) per violation.

9 (2) Any failure of an employer, other than willful failure, to  
10 make a report required by this section is punishable by an  
11 administrative fine not to exceed fifty thousand dollars (\$50,000).

12 (h) The board shall investigate the circumstances underlying  
13 any report received pursuant to this section within 30 days to  
14 determine if an interim suspension order or temporary restraining  
15 order should be issued. The board shall otherwise provide timely  
16 disposition of the reports received pursuant to this section.

17 (i) The board shall send to the licentiate a copy of the report  
18 along with the reasons for the filing of the report and notice  
19 advising the licentiate of his or her right to submit additional  
20 statements or other information to the board.

21 (j) Pursuant to Section 43.8 of the Civil Code, no person shall  
22 incur any civil penalty as a result of making any report required  
23 by this article.

24 (k) No report is required under this section where a report of  
25 the action taken is already required under Section 805.

26 SEC. 70. Section 2661.16 is added to the Business and  
27 Professions Code, to read:

28 2661.16. Unless otherwise provided, on or after July 1, 2013,  
29 the board shall post on its Internet Web site the following  
30 information including the name and license number in its  
31 possession, custody, or control regarding every licensee for which  
32 the board licenses:

33 (a) With regard to the status of every license, whether or not  
34 the licensee or former licensee is in good standing, subject to a  
35 temporary restraining order, subject to an interim suspension  
36 order, subject to a restriction or cease practice ordered pursuant  
37 to Section 23 of the Penal Code, or subject to any of the  
38 enforcement actions described in Section 803.1.

39 (b) With regard to prior discipline of a licensee, whether or not  
40 the licensee or former licensee has been subject to discipline by



1 *the board or by the board of another state or jurisdiction, as*  
2 *described in Section 803.1.*

3 *(c) Any felony conviction of a licensee reported to the board.*

4 *(d) All current accusations filed by the Attorney General,*  
5 *including those accusations that are on appeal. For purposes of*  
6 *this paragraph, “current accusation” means an accusation that*  
7 *has not been dismissed, withdrawn, or settled, and has not been*  
8 *finally decided upon by an administrative law judge and the board*  
9 *unless an appeal of that decision is pending.*

10 *(e) Any malpractice judgment or arbitration award imposed*  
11 *against a licensee and reported to the board.*

12 *(f) Any hospital disciplinary action imposed against a licensee*  
13 *that resulted in the termination or revocation of a licensee’s*  
14 *hospital staff privileges for a medical disciplinary cause or reason*  
15 *pursuant to Section 2661.14 or 805.*

16 *(g) Any misdemeanor conviction of a licensee that results in a*  
17 *disciplinary action or an accusation that is not subsequently*  
18 *withdrawn or dismissed.*

19 *(h) Appropriate disclaimers and explanatory statements to*  
20 *accompany the above information, including an explanation of*  
21 *what types of information are not disclosed. These disclaimers*  
22 *and statements shall be developed by the board and shall be*  
23 *adopted by regulation.*

24 *(i) The information provided on the Internet shall be in*  
25 *accordance with the California Public Records Act (Chapter 3.5*  
26 *commencing with Section 6250) of Division 7 of Title 1 of the*  
27 *Government Code) and the Information Practices Act of 1977*  
28 *(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4*  
29 *of Division 3 of the Civil Code) and shall comply with the*  
30 *Department of Consumer Affairs Guidelines for Access to Public*  
31 *Records.*

32 *(j) Information provided on the Internet may not include*  
33 *personal information, unless otherwise provided pursuant to this*  
34 *chapter, including the home telephone number, date of birth, or*  
35 *social security number. The information may not include the*  
36 *licensee’s address, but may include the city and county of the*  
37 *licensee’s address of record.*

38 *SEC. 71. Section 2661.17 is added to the Business and*  
39 *Professions Code, to read:*

1     2661.17. (a) Unless otherwise provided, if a licensee possesses  
2     a license or is otherwise authorized to practice in any state other  
3     than California or by any agency of the federal government and  
4     that license or authority is suspended or revoked outright, the  
5     California license of the licensee shall be suspended automatically  
6     for the duration of the suspension or revocation, unless terminated  
7     or rescinded as provided in subdivision (c). The board shall notify  
8     the licensee of the license suspension and of his or her right to  
9     have the issue of penalty heard as provided in this section.

10    (b) Upon its own motion or for good cause shown, the board  
11    may decline to impose or may set aside the suspension when it  
12    appears to be in the interest of justice to do so, with due regard  
13    to maintaining the integrity of, and confidence in, the specific  
14    healing art.

15    (c) The issue of penalty shall be heard by an administrative law  
16    judge sitting alone or with a panel of the board, in the discretion  
17    of the board. A licensee may request a hearing on the penalty and  
18    that hearing shall be held within 90 days from the date of the  
19    request. If the order suspending or revoking the license or authority  
20    to practice is overturned on appeal, any discipline ordered  
21    pursuant to this section shall automatically cease. Upon a showing  
22    to the administrative law judge or panel by the licensee that the  
23    out-of-state action is not a basis for discipline in California, the  
24    suspension shall be rescinded. If an accusation for permanent  
25    discipline is not filed within 90 days of the suspension imposed  
26    pursuant to this section, the suspension shall automatically  
27    terminate.

28    (d) The record of the proceedings that resulted in the suspension  
29    or revocation of the licensee's out-of-state license or authority to  
30    practice, including a transcript of the testimony therein, may be  
31    received in evidence.

32    (e) This section shall not apply to a licensee who maintains his  
33    or her primary practice in California, as evidenced by having  
34    maintained a practice in this state for not less than one year  
35    immediately preceding the date of suspension or revocation.  
36    Nothing in this section shall preclude a licensee's license from  
37    being suspended pursuant to any other provision of law.

38    (f) This section shall not apply to a licensee whose license has  
39    been surrendered, whose only discipline is a medical staff  
40    disciplinary action at a federal hospital and not for medical

1 *disciplinary cause or reason as that term is defined in Section 805,*  
2 *or whose revocation or suspension has been stayed, even if the*  
3 *licensee remains subject to terms of probation or other discipline.*

4 *(g) This section shall not apply to a suspension or revocation*  
5 *imposed by a state that is based solely on the prior discipline of*  
6 *the licensee by another state.*

7 *(h) The other provisions of this article setting forth a procedure*  
8 *for the suspension or revocation of a licensee's license or*  
9 *certificate shall not apply to summary suspensions issued pursuant*  
10 *to this section. If a summary suspension has been issued pursuant*  
11 *to this section, the licensee may request that the hearing on the*  
12 *penalty conducted pursuant to subdivision (c) be held at the same*  
13 *time as a hearing on the accusation.*

14 *(i) A board that complies with Section 2310 shall not be subject*  
15 *to the requirements of this section.*

16 *SEC. 72. Section 2766 is added to the Business and Professions*  
17 *Code, to read:*

18 *2766. (a) The board may delegate to its executive officer the*  
19 *authority to adopt a proposed default decision where an*  
20 *administrative action to revoke a license has been filed and the*  
21 *licensee has failed to file a notice of defense or to appear at the*  
22 *hearing and a proposed default decision revoking the license has*  
23 *been issued.*

24 *(b) The board may delegate to its executive officer the authority*  
25 *to adopt a proposed settlement agreement where an administrative*  
26 *action to revoke a license has been filed by the board and the*  
27 *licensee has agreed to the revocation or surrender of his or her*  
28 *license.*

29 *(c) The executive officer shall, at scheduled board meetings,*  
30 *report to the board the number of proposed default decisions or*  
31 *proposed settlement agreements adopted pursuant to this section.*

32 *SEC. 73. Section 2766.1 is added to the Business and*  
33 *Professions Code, to read:*

34 *2766.1. (a) Notwithstanding Section 11415.60 of the*  
35 *Government Code, the board may enter into a settlement with a*  
36 *licensee or applicant in lieu of the issuance of an accusation or*  
37 *statement of issues against that licensee or applicant, as applicable.*

38 *(b) The settlement shall include language identifying the factual*  
39 *basis for the action being taken and a list of the statutes or*  
40 *regulations violated.*

1 (c) A person who enters a settlement pursuant to this section is  
2 not precluded from filing a petition, in the timeframe permitted by  
3 law, to modify the terms of the settlement or petition for early  
4 termination of probation, if probation is part of the settlement.

5 (d) Any settlement against a licensee executed pursuant to this  
6 section shall be considered discipline and a public record and  
7 shall be posted on the applicable board's Internet Web site. Any  
8 settlement against an applicant executed pursuant to this section  
9 shall be considered a public record and shall be posted on the  
10 applicable board's Internet Web site.

11 (e) The executive officer shall, at scheduled board meetings,  
12 report to the board the number of proposed settlement agreements  
13 adopted pursuant to this section.

14 SEC. 74. Section 2766.2 is added to the Business and  
15 Professions Code, to read:

16 2766.2. (a) The license of a licensee shall be suspended  
17 automatically during any time that the licensee is incarcerated  
18 after conviction of a felony, regardless of whether the conviction  
19 has been appealed. The board shall, immediately upon receipt of  
20 the certified copy of the record of conviction, determine whether  
21 the license of the licensee has been automatically suspended by  
22 virtue of his or her incarceration, and if so, the duration of that  
23 suspension. The board shall notify the licensee in writing of the  
24 license suspension and of his or her right to elect to have the issue  
25 of penalty heard as provided in subdivision (d).

26 (b) Upon receipt of the certified copy of the record of conviction,  
27 if after a hearing before an administrative law judge from the  
28 Office of Administrative Hearings it is determined that the felony  
29 for which the licensee was convicted was substantially related to  
30 the qualifications, functions, or duties of a licensee, the board  
31 shall suspend the license until the time for appeal has elapsed, if  
32 no appeal has been taken, or until the judgment of conviction has  
33 been affirmed on appeal or has otherwise become final, and until  
34 further order of the board.

35 (c) Notwithstanding subdivision (b), a conviction of a charge  
36 of violating any federal statute or regulation or any statute or  
37 regulation of this state, regulating dangerous drugs or controlled  
38 substances, or a conviction of Section 187, 261, 262, or 288 of the  
39 Penal Code, shall be conclusively presumed to be substantially  
40 related to the qualifications, functions, or duties of a licensee and

1 no hearing shall be held on this issue. However, upon its own  
2 motion or for good cause shown, the board may decline to impose  
3 or may set aside the suspension when it appears to be in the interest  
4 of justice to do so, with due regard to maintaining the integrity of,  
5 and confidence in, the practice regulated by the board.

6 (d) (1) Discipline may be ordered against a licensee in  
7 accordance with the statutes and regulations of the board when  
8 the time for appeal has elapsed, the judgment of conviction has  
9 been affirmed on appeal, or an order granting probation is made  
10 suspending the imposition of sentence, irrespective of a subsequent  
11 order under Section 1203.4 of the Penal Code allowing the person  
12 to withdraw his or her plea of guilty and to enter a plea of not  
13 guilty, setting aside the verdict of guilty, or dismissing the  
14 accusation, complaint, information, or indictment.

15 (2) The issue of penalty shall be heard by an administrative law  
16 judge from the Office of Administrative Hearings. The hearing  
17 shall not be had until the judgment of conviction has become final  
18 or, irrespective of a subsequent order under Section 1203.4 of the  
19 Penal Code, an order granting probation has been made  
20 suspending the imposition of sentence; except that a licensee may,  
21 at his or her option, elect to have the issue of penalty decided  
22 before those time periods have elapsed. Where the licensee so  
23 elects, the issue of penalty shall be heard in the manner described  
24 in subdivision (b) at the hearing to determine whether the  
25 conviction was substantially related to the qualifications, functions,  
26 or duties of a licensee. If the conviction of a licensee who has made  
27 this election is overturned on appeal, any discipline ordered  
28 pursuant to this section shall automatically cease. Nothing in this  
29 subdivision shall prohibit the board from pursuing disciplinary  
30 action based on any cause other than the overturned conviction.

31 (e) The record of the proceedings resulting in a conviction,  
32 including a transcript of the testimony in those proceedings, may  
33 be received in evidence.

34 (f) Any other provision of law setting forth a procedure for the  
35 suspension or revocation of a license issued by the board shall not  
36 apply to proceedings conducted pursuant to this section.

37 SEC. 75. Section 2766.3 is added to the Business and  
38 Professions Code, to read:

39 2766.3. (a) Except as otherwise provided, any proposed  
40 decision or decision issued in accordance with the procedures set

1 *forth in Chapter 5 (commencing with Section 11500) of Part 1 of*  
2 *Division 3 of Title 2 of the Government Code, that contains any*  
3 *finding of fact that the licensee engaged in any act of sexual contact*  
4 *with a patient, as defined in subdivision (c) of Section 729, or any*  
5 *finding that the licensee has committed a sex offense, shall contain*  
6 *an order revoking the license. The proposed decision shall not*  
7 *contain any order staying the revocation of the licensee.*

8 *(b) As used in this section, the term sex offense shall mean any*  
9 *of the following:*

10 *(1) Any offense for which registration is required by Section*  
11 *290 of the Penal Code or a finding that a person committed such*  
12 *an act.*

13 *(2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,*  
14 *or 647(a) or (d) of the Penal Code or a finding that a person*  
15 *committed such an act.*

16 *(3) Any attempt to commit any of the offenses specified in this*  
17 *section.*

18 *(4) Any offense committed or attempted in any other state or*  
19 *against the laws of the United States which, if committed or*  
20 *attempted in this state, would have been punishable as one or more*  
21 *of the offenses specified in this section.*

22 *SEC. 76. Section 2766.4 is added to the Business and*  
23 *Professions Code, to read:*

24 *2766.4. (a) Except as otherwise provided, with regard to an*  
25 *individual who is required to register as a sex offender pursuant*  
26 *to Section 290 of the Penal Code, or the equivalent in another*  
27 *state or territory, under military law, or under federal law, the*  
28 *board shall be subject to the following requirements:*

29 *(1) The board shall deny an application by the individual for*  
30 *licensure in accordance with the procedures set forth in Chapter*  
31 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
32 *2 of the Government Code.*

33 *(2) If the individual is licensed under this chapter, the board*  
34 *shall promptly revoke the license of the individual in accordance*  
35 *with the procedures set forth in Chapter 5 (commencing with*  
36 *Section 11500) of Part 1 of Division 3 of Title 2 of the Government*  
37 *Code. The board shall not stay the revocation and place the license*  
38 *on probation.*

1     (3) *The board shall not reinstate or reissue the individual's*  
2 *license. The board shall not issue a stay of license denial nor place*  
3 *the license on probation.*

4     (b) *This section shall not apply to any of the following:*

5     (1) *An individual who has been relieved under Section 290.5 of*  
6 *the Penal Code of his or her duty to register as a sex offender, or*  
7 *whose duty to register has otherwise been formally terminated*  
8 *under California law or the law of the jurisdiction that requires*  
9 *his or her registration as a sex offender.*

10    (2) *An individual who is required to register as a sex offender*  
11 *pursuant to Section 290 of the Penal Code solely because of a*  
12 *misdemeanor conviction under Section 314 of the Penal Code.*  
13 *However, nothing in this paragraph shall prohibit the board from*  
14 *exercising its discretion to discipline a licensee under any other*  
15 *provision of state law based upon the licensee's conviction under*  
16 *Section 314 of the Penal Code.*

17    (3) *Any administrative adjudication proceeding under Chapter*  
18 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
19 *2 of the Government Code that is fully adjudicated prior to January*  
20 *1, 2008. A petition for reinstatement of a revoked or surrendered*  
21 *license shall be considered a new proceeding for purposes of this*  
22 *paragraph, and the prohibition against reinstating a license to an*  
23 *individual who is required to register as a sex offender shall be*  
24 *applicable.*

25    SEC. 77. *Section 2766.5 is added to the Business and*  
26 *Professions Code, to read:*

27    2766.5. (a) *Notwithstanding any other provision of law making*  
28 *a communication between a licensee and his or her patients a*  
29 *privileged communication, those provisions shall not apply to*  
30 *investigations or proceedings conducted by the board. Members*  
31 *of the board, deputies, employees, agents, the office of the Attorney*  
32 *General, and representatives of the board shall keep in confidence*  
33 *during the course of investigations the names of any patients whose*  
34 *records are reviewed and may not disclose or reveal those names,*  
35 *except as is necessary during the course of an investigation, unless*  
36 *and until proceedings are instituted. The authority under this*  
37 *subdivision to examine records of patients in the office of a licensee*  
38 *is limited to records of patients who have complained to the board*  
39 *about that licensee.*

1     (b) Notwithstanding any other provision of law, the Attorney  
2     General and his or her investigative agents, and the board and its  
3     investigators and representatives may inquire into any alleged  
4     violation of the laws under the jurisdiction of the board or any  
5     other federal or state law, regulation, or rule relevant to the  
6     practice regulated by the board, whichever is applicable, and may  
7     inspect documents relevant to those investigations in accordance  
8     with the following procedures:

9     (1) Any document relevant to an investigation may be inspected,  
10    and copies may be obtained, where a patient provides written  
11    authorization.

12    (2) Any document relevant to the business operations of a  
13    licensee, and not involving medical records attributable to  
14    identifiable patients, may be inspected and copied where relevant  
15    to an investigation of a licensee.

16    (c) In all cases where documents are inspected or copies of  
17    those documents are received, their acquisition or review shall be  
18    arranged so as not to unnecessarily disrupt the medical and  
19    business operations of the licensee or of the facility where the  
20    records are kept or used.

21    (d) Where certified documents are lawfully requested from  
22    licensees in accordance with this section by the Attorney General  
23    or his or her agents or deputies, or investigators of any board, the  
24    documents shall be provided within 10 business days of receipt of  
25    the request, unless the licensee is unable to provide the certified  
26    documents within this time period for good cause, including, but  
27    not limited to, physical inability to access the records in the time  
28    allowed due to illness or travel. Failure to produce requested  
29    certified documents or copies thereof, after being informed of the  
30    required deadline, shall constitute unprofessional conduct. A board  
31    may use its authority to cite and fine a licensee for any violation  
32    of this section. This remedy is in addition to any other authority  
33    of the board to sanction a licensee for a delay in producing  
34    requested records.

35    (e) Searches conducted of the office or medical facility of any  
36    licensee shall not interfere with the recordkeeping format or  
37    preservation needs of any licensee necessary for the lawful care  
38    of patients.

39    (f) The licensee shall cooperate with the board in furnishing  
40    information or assistance as may be required, including, but not



1 *limited to, participation in an interview with investigators or*  
2 *representatives of the board.*

3 *(g) This section shall not apply to a licensee who does not have*  
4 *access to, and control over, certified medical records or other*  
5 *types of documents that belong to or are controlled by a health*  
6 *facility or clinic.*

7 *SEC. 78. Section 2766.6 is added to the Business and*  
8 *Professions Code, to read:*

9 *2766.6. (a) (1) Notwithstanding any other provision of law,*  
10 *a licensee who fails or refuses to comply with a request for the*  
11 *certified medical records of a patient that is accompanied by that*  
12 *patient's written authorization for release of records to a board*  
13 *together with a notice citing this section and describing the*  
14 *penalties for failure to comply with this section shall be required*  
15 *to pay to the board a civil penalty of up to one thousand dollars*  
16 *(\$1,000) per day for each day that the documents have not been*  
17 *produced after the 15th day, up to ten thousand dollars (\$10,000),*  
18 *unless the licensee is unable to provide the documents within this*  
19 *time period for good cause.*

20 *(2) A health care facility shall comply with a request for the*  
21 *certified medical records of a patient that is accompanied by that*  
22 *patient's written authorization for release of records to a board*  
23 *together with a notice citing this section and describing the*  
24 *penalties for failure to comply with this section. Failure to provide*  
25 *the authorizing patient's certified medical records to the board*  
26 *within 15 days of receiving the request, authorization, and notice*  
27 *shall subject the health care facility to a civil penalty, payable to*  
28 *the board, of up to one thousand dollars (\$1,000) per day for each*  
29 *day that the documents have not been produced after the 15th day,*  
30 *up to ten thousand dollars (\$10,000), unless the health care facility*  
31 *is unable to provide the documents within this time period for good*  
32 *cause. This paragraph shall not require health care facilities to*  
33 *assist the board in obtaining the patient's authorization. The board*  
34 *shall pay the reasonable costs of copying the certified medical*  
35 *records, but shall not be required to make that payment prior to*  
36 *the production of the medical records.*

37 *(b) (1) A licensee who fails or refuses to comply with a court*  
38 *order, issued in the enforcement of a subpoena, mandating the*  
39 *release of records to the board, shall pay to the board a civil*  
40 *penalty of up to one thousand dollars (\$1,000) per day for each*

1 day that the documents have not been produced after the date by  
2 which the court order requires the documents to be produced, up  
3 to ten thousand dollars (\$10,000), unless it is determined that the  
4 order is unlawful or invalid. Any statute of limitations applicable  
5 to the filing of an accusation by the board shall be tolled during  
6 the period the licensee is out of compliance with the court order  
7 and during any related appeals.

8 (2) Any licensee who fails or refuses to comply with a court  
9 order, issued in the enforcement of a subpoena, mandating the  
10 release of records to a board is guilty of a misdemeanor punishable  
11 by a fine payable to the board not to exceed five thousand dollars  
12 (\$5,000). The fine shall be added to the licensee's renewal fee if  
13 it is not paid by the next succeeding renewal date. Any statute of  
14 limitations applicable to the filing of an accusation by the board  
15 shall be tolled during the period the licensee is out of compliance  
16 with the court order and during any related appeals.

17 (3) A health care facility that fails or refuses to comply with a  
18 court order, issued in the enforcement of a subpoena, mandating  
19 the release of patient records to the board, that is accompanied  
20 by a notice citing this section and describing the penalties for  
21 failure to comply with this section, shall pay to the board a civil  
22 penalty of up to one thousand dollars (\$1,000) per day for each  
23 day that the documents have not been produced, up to ten thousand  
24 dollars (\$10,000), after the date by which the court order requires  
25 the documents to be produced, unless it is determined that the  
26 order is unlawful or invalid. Any statute of limitations applicable  
27 to the filing of an accusation by the board against a licensee shall  
28 be tolled during the period the health care facility is out of  
29 compliance with the court order and during any related appeals.

30 (4) Any health care facility that fails or refuses to comply with  
31 a court order, issued in the enforcement of a subpoena, mandating  
32 the release of records to the board is guilty of a misdemeanor  
33 punishable by a fine payable to the board not to exceed five  
34 thousand dollars (\$5,000). Any statute of limitations applicable  
35 to the filing of an accusation by the healing arts board against a  
36 licensee shall be tolled during the period the health care facility  
37 is out of compliance with the court order and during any related  
38 appeals.

39 (c) Multiple acts by a licensee in violation of subdivision (b)  
40 shall be punishable by a fine not to exceed five thousand dollars

1 (\$5,000) or by imprisonment in a county jail not exceeding six  
2 months, or by both that fine and imprisonment. Multiple acts by  
3 a health care facility in violation of subdivision (b) shall be  
4 punishable by a fine not to exceed five thousand dollars (\$5,000),  
5 shall be reported to the State Department of Public Health, and  
6 shall be considered as grounds for disciplinary action with respect  
7 to licensure, including suspension or revocation of the license or  
8 certificate.

9 (d) A failure or refusal of a licensee to comply with a court  
10 order, issued in the enforcement of a subpoena, mandating the  
11 release of records to the board constitutes unprofessional conduct  
12 and is grounds for suspension or revocation of his or her license.

13 (e) Imposition of the civil penalties authorized by this section  
14 shall be in accordance with the Administrative Procedure Act  
15 (Chapter 5 (commencing with Section 11500) of Division 3 of Title  
16 2 of the Government Code). Any civil penalties paid to, or received  
17 by, the board pursuant to this section shall be deposited into the  
18 fund administered by the board.

19 (f) For purposes of this section, “certified medical records”  
20 means a copy of the patient’s medical records authenticated by  
21 the licensee or health care facility, as appropriate, on a form  
22 prescribed by the licensee’s board.

23 (g) For purposes of this section, a “health care facility” means  
24 a clinic or health facility licensed or exempt from licensure  
25 pursuant to Division 2 (commencing with Section 1200) of the  
26 Health and Safety Code.

27 (h) If a board complies with Section 1684.1, 2225.5, or 2969,  
28 that board shall not be subject to the requirements of this section.

29 (i) This section shall not apply to a licensee who does not have  
30 access to, or control over, certified medical records or other types  
31 of documents that belong to or are controlled by a health facility  
32 or clinic.

33 SEC. 79. Section 2766.7 is added to the Business and  
34 Professions Code, to read:

35 2766.7. (a) Unless otherwise provided, on or after July 1,  
36 2013, the board shall post on the Internet the following  
37 information, including the name and license number, in its  
38 possession, custody, or control regarding every licensee for which  
39 the board licenses:

1     (1) With regard to the status of every license, whether or not  
2     the licensee or former licensee is in good standing, subject to a  
3     temporary restraining order, subject to an interim suspension  
4     order, subject to a restriction or cease practice ordered pursuant  
5     to Section 23 of the Penal Code, or subject to any of the  
6     enforcement actions described in Section 803.1.

7     (2) With regard to prior discipline of a licensee, whether or not  
8     the licensee or former licensee has been subject to discipline by  
9     the board or by the board of another state or jurisdiction, as  
10    described in Section 803.1.

11    (3) Any felony conviction of a licensee reported to the board.

12    (4) All current accusations filed by the Attorney General,  
13    including those accusations that are on appeal. For purposes of  
14    this paragraph, “current accusation” means an accusation that  
15    has not been dismissed, withdrawn, or settled, and has not been  
16    finally decided upon by an administrative law judge and the board  
17    unless an appeal of that decision is pending.

18    (5) Any malpractice judgment or arbitration award imposed  
19    against a licensee and reported to the healing arts board.

20    (6) Any misdemeanor conviction of a licensee that results in a  
21    disciplinary action or an accusation that is not subsequently  
22    withdrawn or dismissed.

23    (7) Appropriate disclaimers and explanatory statements to  
24    accompany the above information, including an explanation of  
25    what types of information are not disclosed. These disclaimers  
26    and statements shall be developed by the healing arts board and  
27    shall be adopted by regulation.

28    (b) The information provided on the Internet shall be in  
29    accordance with the California Public Records Act (Chapter 3.5  
30    (commencing with Section 6250) of Division 7 of Title 1 of the  
31    Government Code) and the Information Practices Act of 1977  
32    (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4  
33    of Division 3 of the Civil Code) and shall comply with the  
34    Department of Consumer Affairs Guidelines for Access to Public  
35    Records.

36    (c) Information provided on the Internet may not include  
37    personal information, unless otherwise provided pursuant to this  
38    chapter, including the home telephone number, date of birth, or  
39    social security number. The information may not include the

1 licensee's address, nor the city and county of the licensee's address  
2 of record.

3 SEC. 80. Section 2766.8 is added to the Business and  
4 Professions Code, to read:

5 2766.8. (a) Unless otherwise provided, if a licensee possesses  
6 a license or is otherwise authorized to practice in any state other  
7 than California or by any agency of the federal government and  
8 that license or authority is suspended or revoked outright, the  
9 California license of the licensee shall be suspended automatically  
10 for the duration of the suspension or revocation, unless terminated  
11 or rescinded as provided in subdivision (c). The healing arts board  
12 shall notify the licensee of the license suspension and of his or her  
13 right to have the issue of penalty heard as provided in this section.

14 (b) Upon its own motion or for good cause shown, the board  
15 may decline to impose or may set aside the suspension when it  
16 appears to be in the interest of justice to do so, with due regard  
17 to maintaining the integrity of, and confidence in, the specific  
18 healing art.

19 (c) The issue of penalty shall be heard by an administrative law  
20 judge sitting alone or with a panel of the board, in the discretion  
21 of the board. A licensee may request a hearing on the penalty and  
22 that hearing shall be held within 90 days from the date of the  
23 request. If the order suspending or revoking the license or authority  
24 to practice is overturned on appeal, any discipline ordered  
25 pursuant to this section shall automatically cease. Upon a showing  
26 to the administrative law judge or panel by the licensee that the  
27 out-of-state action is not a basis for discipline in California, the  
28 suspension shall be rescinded. If an accusation for permanent  
29 discipline is not filed within 90 days of the suspension imposed  
30 pursuant to this section, the suspension shall automatically  
31 terminate.

32 (d) The record of the proceedings that resulted in the suspension  
33 or revocation of the licensee's out-of-state license or authority to  
34 practice, including a transcript of the testimony therein, may be  
35 received in evidence.

36 (e) This section shall not apply to a licensee who maintains his  
37 or her primary practice in California, as evidenced by having  
38 maintained a practice in this state for not less than one year  
39 immediately preceding the date of suspension or revocation.

1 *Nothing in this section shall preclude a licensee's license from*  
2 *being suspended pursuant to any other provision of law.*

3 *(f) This section shall not apply to a licensee whose license has*  
4 *been surrendered, whose only discipline is a medical staff*  
5 *disciplinary action at a federal hospital and not for medical*  
6 *disciplinary cause or reason as that term is defined in Section 805,*  
7 *or whose revocation or suspension has been stayed, even if the*  
8 *licensee remains subject to terms of probation or other discipline.*

9 *(g) This section shall not apply to a suspension or revocation*  
10 *imposed by a state that is based solely on the prior discipline of*  
11 *the licensee by another state.*

12 *(h) The other provisions of this article setting forth a procedure*  
13 *for the suspension or revocation of a licensee's license or*  
14 *certificate shall not apply to summary suspensions issued pursuant*  
15 *to this section. If a summary suspension has been issued pursuant*  
16 *to this section, the licensee may request that the hearing on the*  
17 *penalty conducted pursuant to subdivision (c) be held at the same*  
18 *time as a hearing on the accusation.*

19 *(i) A board that complies with Section 2310 shall not be subject*  
20 *to the requirements of this section.*

21 *SEC. 81. Section 2879.1 is added to the Business and*  
22 *Professions Code, to read:*

23 *2879.1. (a) The board may delegate to its executive officer the*  
24 *authority to adopt a proposed default decision where an*  
25 *administrative action to revoke a license has been filed and the*  
26 *licensee has failed to file a notice of defense or to appear at the*  
27 *hearing and a proposed default decision revoking the license has*  
28 *been issued.*

29 *(b) The board may delegate to its executive officer the authority*  
30 *to adopt a proposed settlement agreement where an administrative*  
31 *action to revoke a license has been filed by the board and the*  
32 *licensee has agreed to the revocation or surrender of his or her*  
33 *license.*

34 *(c) The executive officer shall, at scheduled board meetings,*  
35 *report to the board the number of proposed default decisions or*  
36 *proposed settlement agreements adopted pursuant to this section.*

37 *SEC. 82. Section 2879.2 is added to the Business and*  
38 *Professions Code, to read:*

39 *2879.2. (a) Notwithstanding Section 11415.60 of the*  
40 *Government Code, the board may enter into a settlement with a*

1 *licensee or applicant in lieu of the issuance of an accusation or*  
2 *statement of issues against that licensee or applicant, as applicable.*

3 *(b) The settlement shall include language identifying the factual*  
4 *basis for the action being taken and a list of the statutes or*  
5 *regulations violated.*

6 *(c) A person who enters a settlement pursuant to this section is*  
7 *not precluded from filing a petition, in the timeframe permitted by*  
8 *law, to modify the terms of the settlement or petition for early*  
9 *termination of probation, if probation is part of the settlement.*

10 *(d) Any settlement against a licensee executed pursuant to this*  
11 *section shall be considered discipline and a public record and*  
12 *shall be posted on the applicable board's Internet Web site. Any*  
13 *settlement against an applicant executed pursuant to this section*  
14 *shall be considered a public record and shall be posted on the*  
15 *applicable board's Internet Web site.*

16 *(e) The executive officer shall, at scheduled board meetings,*  
17 *report to the board the number of proposed settlement agreements*  
18 *adopted pursuant to this section.*

19 *SEC. 83. Section 2879.3 is added to the Business and*  
20 *Professions Code, to read:*

21 *2879.3. (a) The license of a licensee shall be suspended*  
22 *automatically during any time that the licensee is incarcerated*  
23 *after conviction of a felony, regardless of whether the conviction*  
24 *has been appealed. The board shall, immediately upon receipt of*  
25 *the certified copy of the record of conviction, determine whether*  
26 *the license of the licensee has been automatically suspended by*  
27 *virtue of his or her incarceration, and if so, the duration of that*  
28 *suspension. The board shall notify the licensee in writing of the*  
29 *license suspension and of his or her right to elect to have the issue*  
30 *of penalty heard as provided in subdivision (d).*

31 *(b) Upon receipt of the certified copy of the record of conviction,*  
32 *if after a hearing before an administrative law judge from the*  
33 *Office of Administrative Hearings it is determined that the felony*  
34 *for which the licensee was convicted was substantially related to*  
35 *the qualifications, functions, or duties of a licensee, the board*  
36 *shall suspend the license until the time for appeal has elapsed, if*  
37 *no appeal has been taken, or until the judgment of conviction has*  
38 *been affirmed on appeal or has otherwise become final, and until*  
39 *further order of the board.*

1     (c) Notwithstanding subdivision (b), a conviction of a charge  
2     of violating any federal statute or regulation or any statute or  
3     regulation of this state, regulating dangerous drugs or controlled  
4     substances, or a conviction of Section 187, 261, 262, or 288 of the  
5     Penal Code, shall be conclusively presumed to be substantially  
6     related to the qualifications, functions, or duties of a licensee and  
7     no hearing shall be held on this issue. However, upon its own  
8     motion or for good cause shown, the board may decline to impose  
9     or may set aside the suspension when it appears to be in the interest  
10    of justice to do so, with due regard to maintaining the integrity of,  
11    and confidence in, the practice regulated by the board.

12    (d) (1) Discipline may be ordered against a licensee in  
13    accordance with the statutes and regulations of the board when  
14    the time for appeal has elapsed, the judgment of conviction has  
15    been affirmed on appeal, or an order granting probation is made  
16    suspending the imposition of sentence, irrespective of a subsequent  
17    order under Section 1203.4 of the Penal Code allowing the person  
18    to withdraw his or her plea of guilty and to enter a plea of not  
19    guilty, setting aside the verdict of guilty, or dismissing the  
20    accusation, complaint, information, or indictment.

21    (2) The issue of penalty shall be heard by an administrative law  
22    judge from the Office of Administrative Hearings. The hearing  
23    shall not be had until the judgment of conviction has become final  
24    or, irrespective of a subsequent order under Section 1203.4 of the  
25    Penal Code, an order granting probation has been made  
26    suspending the imposition of sentence; except that a licensee may,  
27    at his or her option, elect to have the issue of penalty decided  
28    before those time periods have elapsed. Where the licensee so  
29    elects, the issue of penalty shall be heard in the manner described  
30    in subdivision (b) at the hearing to determine whether the  
31    conviction was substantially related to the qualifications, functions,  
32    or duties of a licensee. If the conviction of a licensee who has made  
33    this election is overturned on appeal, any discipline ordered  
34    pursuant to this section shall automatically cease. Nothing in this  
35    subdivision shall prohibit the board from pursuing disciplinary  
36    action based on any cause other than the overturned conviction.

37    (e) The record of the proceedings resulting in a conviction,  
38    including a transcript of the testimony in those proceedings, may  
39    be received in evidence.



1     (f) Any other provision of law setting forth a procedure for the  
2     suspension or revocation of a license issued by the board shall not  
3     apply to proceedings conducted pursuant to this section.

4     SEC. 84. Section 2879.4 is added to the Business and  
5     Professions Code, to read:

6     2879.4. (a) Except as otherwise provided, any proposed  
7     decision or decision issued in accordance with the procedures set  
8     forth in Chapter 5 (commencing with Section 11500) of Part 1 of  
9     Division 3 of Title 2 of the Government Code, that contains any  
10    finding of fact that the licensee engaged in any act of sexual contact  
11    with a patient, as defined in subdivision (c) of Section 729, or any  
12    finding that the licensee has committed a sex offense, shall contain  
13    an order revoking the license. The proposed decision shall not  
14    contain any order staying the revocation of the licensee.

15    (b) As used in this section, the term sex offense shall mean any  
16    of the following:

17    (1) Any offense for which registration is required by Section  
18    290 of the Penal Code or a finding that a person committed such  
19    an act.

20    (2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,  
21    or 647(a) or (d) of the Penal Code or a finding that a person  
22    committed such an act.

23    (3) Any attempt to commit any of the offenses specified in this  
24    section.

25    (4) Any offense committed or attempted in any other state or  
26    against the laws of the United States which, if committed or  
27    attempted in this state, would have been punishable as one or more  
28    of the offenses specified in this section.

29    SEC. 85. Section 2879.5 is added to the Business and  
30    Professions Code, to read:

31    2879.5. (a) Except as otherwise provided, with regard to an  
32    individual who is required to register as a sex offender pursuant  
33    to Section 290 of the Penal Code, or the equivalent in another  
34    state or territory, under military law, or under federal law, the  
35    board shall be subject to the following requirements:

36    (1) The board shall deny an application by the individual for  
37    licensure in accordance with the procedures set forth in Chapter  
38    5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
39    2 of the Government Code.

1     (2) *If the individual is licensed under this chapter, the board*  
2 *shall promptly revoke the license of the individual in accordance*  
3 *with the procedures set forth in Chapter 5 (commencing with*  
4 *Section 11500) of Part 1 of Division 3 of Title 2 of the Government*  
5 *Code. The board shall not stay the revocation and place the license*  
6 *on probation.*

7     (3) *The board shall not reinstate or reissue the individual's*  
8 *license. The board shall not issue a stay of license denial nor place*  
9 *the license on probation.*

10    (b) *This section shall not apply to any of the following:*

11     (1) *An individual who has been relieved under Section 290.5 of*  
12 *the Penal Code of his or her duty to register as a sex offender, or*  
13 *whose duty to register has otherwise been formally terminated*  
14 *under California law or the law of the jurisdiction that requires*  
15 *his or her registration as a sex offender.*

16     (2) *An individual who is required to register as a sex offender*  
17 *pursuant to Section 290 of the Penal Code solely because of a*  
18 *misdemeanor conviction under Section 314 of the Penal Code.*  
19 *However, nothing in this paragraph shall prohibit the board from*  
20 *exercising its discretion to discipline a licensee under any other*  
21 *provision of state law based upon the licensee's conviction under*  
22 *Section 314 of the Penal Code.*

23     (3) *Any administrative adjudication proceeding under Chapter*  
24 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
25 *2 of the Government Code that is fully adjudicated prior to January*  
26 *1, 2008. A petition for reinstatement of a revoked or surrendered*  
27 *license shall be considered a new proceeding for purposes of this*  
28 *paragraph, and the prohibition against reinstating a license to an*  
29 *individual who is required to register as a sex offender shall be*  
30 *applicable.*

31    SEC. 86. *Section 2879.6 is added to the Business and*  
32 *Professions Code, to read:*

33     2879.6. (a) *Notwithstanding any other provision of law making*  
34 *a communication between a licensee and his or her patients a*  
35 *privileged communication, those provisions shall not apply to*  
36 *investigations or proceedings conducted by the board. Members*  
37 *of the board, deputies, employees, agents, the office of the Attorney*  
38 *General, and representatives of the board shall keep in confidence*  
39 *during the course of investigations the names of any patients whose*  
40 *records are reviewed and may not disclose or reveal those names,*

1 *except as is necessary during the course of an investigation, unless*  
2 *and until proceedings are instituted. The authority under this*  
3 *subdivision to examine records of patients in the office of a licensee*  
4 *is limited to records of patients who have complained to the board*  
5 *about that licensee.*

6 *(b) Notwithstanding any other provision of law, the Attorney*  
7 *General and his or her investigative agents, and the board and its*  
8 *investigators and representatives may inquire into any alleged*  
9 *violation of the laws under the jurisdiction of the board or any*  
10 *other federal or state law, regulation, or rule relevant to the*  
11 *practice regulated by the board, whichever is applicable, and may*  
12 *inspect documents relevant to those investigations in accordance*  
13 *with the following procedures:*

14 *(1) Any document relevant to an investigation may be inspected,*  
15 *and copies may be obtained, where a patient provides written*  
16 *authorization.*

17 *(2) Any document relevant to the business operations of a*  
18 *licensee, and not involving medical records attributable to*  
19 *identifiable patients, may be inspected and copied where relevant*  
20 *to an investigation of a licensee.*

21 *(c) In all cases where documents are inspected or copies of*  
22 *those documents are received, their acquisition or review shall be*  
23 *arranged so as not to unnecessarily disrupt the medical and*  
24 *business operations of the licensee or of the facility where the*  
25 *records are kept or used.*

26 *(d) Where certified documents are lawfully requested from*  
27 *licensees in accordance with this section by the Attorney General*  
28 *or his or her agents or deputies, or investigators of any board, the*  
29 *documents shall be provided within 10 business days of receipt of*  
30 *the request, unless the licensee is unable to provide the certified*  
31 *documents within this time period for good cause, including, but*  
32 *not limited to, physical inability to access the records in the time*  
33 *allowed due to illness or travel. Failure to produce requested*  
34 *certified documents or copies thereof, after being informed of the*  
35 *required deadline, shall constitute unprofessional conduct. A board*  
36 *may use its authority to cite and fine a licensee for any violation*  
37 *of this section. This remedy is in addition to any other authority*  
38 *of the board to sanction a licensee for a delay in producing*  
39 *requested records.*

1     (e) Searches conducted of the office or medical facility of any  
2     licensee shall not interfere with the recordkeeping format or  
3     preservation needs of any licensee necessary for the lawful care  
4     of patients.

5     (f) The licensee shall cooperate with the board in furnishing  
6     information or assistance as may be required, including, but not  
7     limited to, participation in an interview with investigators or  
8     representatives of the board.

9     (g) This section shall not apply to a licensee who does not have  
10    access to, and control over, certified medical records or other  
11    types of documents that belong to or are controlled by a health  
12    facility or clinic.

13    SEC. 87. Section 2879.7 is added to the Business and  
14    Professions Code, to read:

15    2879.7. (a) (1) Notwithstanding any other provision of law,  
16    a licensee who fails or refuses to comply with a request for the  
17    certified medical records of a patient that is accompanied by that  
18    patient's written authorization for release of records to a board  
19    together with a notice citing this section and describing the  
20    penalties for failure to comply with this section shall be required  
21    to pay to the board a civil penalty of up to one thousand dollars  
22    (\$1,000) per day for each day that the documents have not been  
23    produced after the 15th day, up to ten thousand dollars (\$10,000),  
24    unless the licensee is unable to provide the documents within this  
25    time period for good cause.

26    (2) A health care facility shall comply with a request for the  
27    certified medical records of a patient that is accompanied by that  
28    patient's written authorization for release of records to a board  
29    together with a notice citing this section and describing the  
30    penalties for failure to comply with this section. Failure to provide  
31    the authorizing patient's certified medical records to the board  
32    within 15 days of receiving the request, authorization, and notice  
33    shall subject the health care facility to a civil penalty, payable to  
34    the healing arts board, of up to one thousand dollars (\$1,000) per  
35    day for each day that the documents have not been produced after  
36    the 15th day, up to ten thousand dollars (\$10,000), unless the  
37    health care facility is unable to provide the documents within this  
38    time period for good cause. This paragraph shall not require health  
39    care facilities to assist the board in obtaining the patient's  
40    authorization. The board shall pay the reasonable costs of copying

1 *the certified medical records, but shall not be required to make*  
2 *that payment prior to the production of the medical records.*

3 *(b) (1) A licensee who fails or refuses to comply with a court*  
4 *order, issued in the enforcement of a subpoena, mandating the*  
5 *release of records to the board, shall pay to the board a civil*  
6 *penalty of up to one thousand dollars (\$1,000) per day for each*  
7 *day that the documents have not been produced after the date by*  
8 *which the court order requires the documents to be produced, up*  
9 *to ten thousand dollars (\$10,000), unless it is determined that the*  
10 *order is unlawful or invalid. Any statute of limitations applicable*  
11 *to the filing of an accusation by the healing arts board shall be*  
12 *tolled during the period the licensee is out of compliance with the*  
13 *court order and during any related appeals.*

14 *(2) Any licensee who fails or refuses to comply with a court*  
15 *order, issued in the enforcement of a subpoena, mandating the*  
16 *release of records to a board is guilty of a misdemeanor punishable*  
17 *by a fine payable to the board not to exceed five thousand dollars*  
18 *(\$5,000). The fine shall be added to the licensee's renewal fee if*  
19 *it is not paid by the next succeeding renewal date. Any statute of*  
20 *limitations applicable to the filing of an accusation by the board*  
21 *shall be tolled during the period the licensee is out of compliance*  
22 *with the court order and during any related appeals.*

23 *(3) A health care facility that fails or refuses to comply with a*  
24 *court order, issued in the enforcement of a subpoena, mandating*  
25 *the release of patient records to the board, that is accompanied*  
26 *by a notice citing this section and describing the penalties for*  
27 *failure to comply with this section, shall pay to the board a civil*  
28 *penalty of up to one thousand dollars (\$1,000) per day for each*  
29 *day that the documents have not been produced, up to ten thousand*  
30 *dollars (\$10,000), after the date by which the court order requires*  
31 *the documents to be produced, unless it is determined that the*  
32 *order is unlawful or invalid. Any statute of limitations applicable*  
33 *to the filing of an accusation by the board against a licensee shall*  
34 *be tolled during the period the health care facility is out of*  
35 *compliance with the court order and during any related appeals.*

36 *(4) Any health care facility that fails or refuses to comply with*  
37 *a court order, issued in the enforcement of a subpoena, mandating*  
38 *the release of records to the board is guilty of a misdemeanor*  
39 *punishable by a fine payable to the board not to exceed five*  
40 *thousand dollars (\$5,000). Any statute of limitations applicable*

1 to the filing of an accusation by the board against a licensee shall  
2 be tolled during the period the health care facility is out of  
3 compliance with the court order and during any related appeals.

4 (c) Multiple acts by a licensee in violation of subdivision (b)  
5 shall be punishable by a fine not to exceed five thousand dollars  
6 (\$5,000) or by imprisonment in a county jail not exceeding six  
7 months, or by both that fine and imprisonment. Multiple acts by  
8 a health care facility in violation of subdivision (b) shall be  
9 punishable by a fine not to exceed five thousand dollars (\$5,000),  
10 shall be reported to the State Department of Public Health, and  
11 shall be considered as grounds for disciplinary action with respect  
12 to licensure, including suspension or revocation of the license or  
13 certificate.

14 (d) A failure or refusal of a licensee to comply with a court  
15 order, issued in the enforcement of a subpoena, mandating the  
16 release of records to the board constitutes unprofessional conduct  
17 and is grounds for suspension or revocation of his or her license.

18 (e) Imposition of the civil penalties authorized by this section  
19 shall be in accordance with the Administrative Procedure Act  
20 (Chapter 5 (commencing with Section 11500) of Division 3 of Title  
21 2 of the Government Code). Any civil penalties paid to, or received  
22 by, the board pursuant to this section shall be deposited into the  
23 fund administered by the board.

24 (f) For purposes of this section, “certified medical records”  
25 means a copy of the patient’s medical records authenticated by  
26 the licensee or health care facility, as appropriate, on a form  
27 prescribed by the licensee’s board.

28 (g) For purposes of this section, a “health care facility” means  
29 a clinic or health facility licensed or exempt from licensure  
30 pursuant to Division 2 (commencing with Section 1200) of the  
31 Health and Safety Code.

32 (h) If a board complies with Section 1684.1, 2225.5, or 2969,  
33 that board shall not be subject to the requirements of this section.

34 (i) This section shall not apply to a licensee who does not have  
35 access to, or control over, certified medical records or other types  
36 of documents that belong to or are controlled by a health facility  
37 or clinic.

38 SEC. 88. Section 2879.8 is added to the Business and  
39 Professions Code, to read:

1     2879.8. *Unless otherwise provided, on or after July 1, 2013,*  
2 *the board shall post on its Internet Web site the following*  
3 *information, including the name and license number, in its*  
4 *possession, custody, or control regarding every licensee for which*  
5 *the board licenses:*

6     (a) *With regard to the status of every license, whether or not*  
7 *the licensee or former licensee is in good standing, subject to a*  
8 *temporary restraining order, subject to an interim suspension*  
9 *order, subject to a restriction or cease practice ordered pursuant*  
10 *to Section 23 of the Penal Code, or subject to any of the*  
11 *enforcement actions described in Section 803.1.*

12     (b) *With regard to prior discipline of a licensee, whether or not*  
13 *the licensee or former licensee has been subject to discipline by*  
14 *the board or by the board of another state or jurisdiction, as*  
15 *described in Section 803.1.*

16     (c) *Any felony conviction of a licensee reported to the board.*

17     (d) *All current accusations filed by the Attorney General,*  
18 *including those accusations that are on appeal. For purposes of*  
19 *this paragraph, “current accusation” means an accusation that*  
20 *has not been dismissed, withdrawn, or settled, and has not been*  
21 *finally decided upon by an administrative law judge and the board*  
22 *unless an appeal of that decision is pending.*

23     (e) *Any malpractice judgment or arbitration award imposed*  
24 *against a licensee and reported to the board.*

25     (f) *Any hospital disciplinary action imposed against a licensee*  
26 *that resulted in the termination or revocation of a licensee’s*  
27 *hospital staff privileges for a medical disciplinary cause or reason*  
28 *pursuant to Section 2879.7 or 805.*

29     (g) *Any misdemeanor conviction of a licensee that results in a*  
30 *disciplinary action or an accusation that is not subsequently*  
31 *withdrawn or dismissed.*

32     (h) *Appropriate disclaimers and explanatory statements to*  
33 *accompany the above information, including an explanation of*  
34 *what types of information are not disclosed. These disclaimers*  
35 *and statements shall be developed by the board and shall be*  
36 *adopted by regulation.*

37     (i) *The information provided on the Internet shall be in*  
38 *accordance with the California Public Records Act (Chapter 3.5*  
39 *(commencing with Section 6250) of Division 7 of Title 1 of the*  
40 *Government Code) and the Information Practices Act of 1977*

1 *(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4*  
2 *of Division 3 of the Civil Code) and shall comply with the*  
3 *Department of Consumer Affairs Guidelines for Access to Public*  
4 *Records.*

5 *(j) Information provided on the Internet may not include*  
6 *personal information, unless otherwise provided pursuant to this*  
7 *chapter, including the home telephone number, date of birth, or*  
8 *social security number. The information may not include the*  
9 *licensee's address, but may include the city and county of the*  
10 *licensee's address of record.*

11 *SEC. 89. Section 2879.10 is added to the Business and*  
12 *Professions Code, to read:*

13 *2879.10. (a) Unless otherwise provided, if a licensee possesses*  
14 *a license or is otherwise authorized to practice in any state other*  
15 *than California or by any agency of the federal government and*  
16 *that license or authority is suspended or revoked outright, the*  
17 *California license of the licensee shall be suspended automatically*  
18 *for the duration of the suspension or revocation, unless terminated*  
19 *or rescinded as provided in subdivision (c). The healing arts board*  
20 *shall notify the licensee of the license suspension and of his or her*  
21 *right to have the issue of penalty heard as provided in this section.*

22 *(b) Upon its own motion or for good cause shown, the board*  
23 *may decline to impose or may set aside the suspension when it*  
24 *appears to be in the interest of justice to do so, with due regard*  
25 *to maintaining the integrity of, and confidence in, the specific*  
26 *healing art.*

27 *(c) The issue of penalty shall be heard by an administrative law*  
28 *judge sitting alone or with a panel of the board, in the discretion*  
29 *of the board. A licensee may request a hearing on the penalty and*  
30 *that hearing shall be held within 90 days from the date of the*  
31 *request. If the order suspending or revoking the license or authority*  
32 *to practice is overturned on appeal, any discipline ordered*  
33 *pursuant to this section shall automatically cease. Upon a showing*  
34 *to the administrative law judge or panel by the licensee that the*  
35 *out-of-state action is not a basis for discipline in California, the*  
36 *suspension shall be rescinded. If an accusation for permanent*  
37 *discipline is not filed within 90 days of the suspension imposed*  
38 *pursuant to this section, the suspension shall automatically*  
39 *terminate.*



1     (d) *The record of the proceedings that resulted in the suspension*  
2 *or revocation of the licensee's out-of-state license or authority to*  
3 *practice, including a transcript of the testimony therein, may be*  
4 *received in evidence.*

5     (e) *This section shall not apply to a licensee who maintains his*  
6 *or her primary practice in California, as evidenced by having*  
7 *maintained a practice in this state for not less than one year*  
8 *immediately preceding the date of suspension or revocation.*  
9 *Nothing in this section shall preclude a licensee's license from*  
10 *being suspended pursuant to any other provision of law.*

11     (f) *This section shall not apply to a licensee whose license has*  
12 *been surrendered, whose only discipline is a medical staff*  
13 *disciplinary action at a federal hospital and not for medical*  
14 *disciplinary cause or reason as that term is defined in Section 805,*  
15 *or whose revocation or suspension has been stayed, even if the*  
16 *licensee remains subject to terms of probation or other discipline.*

17     (g) *This section shall not apply to a suspension or revocation*  
18 *imposed by a state that is based solely on the prior discipline of*  
19 *the licensee by another state.*

20     (h) *The other provisions of this article setting forth a procedure*  
21 *for the suspension or revocation of a licensee's license or*  
22 *certificate shall not apply to summary suspensions issued pursuant*  
23 *to this section. If a summary suspension has been issued pursuant*  
24 *to this section, the licensee may request that the hearing on the*  
25 *penalty conducted pursuant to subdivision (c) be held at the same*  
26 *time as a hearing on the accusation.*

27     (i) *A board that complies with Section 2310 shall not be subject*  
28 *to the requirements of this section.*

29     SEC. 90. *Section 2960.1 of the Business and Professions Code*  
30 *is amended to read:*

31     2960.1. (a) *Notwithstanding Section 2960, any proposed*  
32 *decision or decision issued under this chapter in accordance with*  
33 *the procedures set forth in Chapter 5 (commencing with Section*  
34 *11500) of Part 1 of Division 3 of Title 2 of the Government Code,*  
35 *that contains any finding of fact that the licensee or registrant*  
36 *engaged in any act of sexual contact, as defined in Section 728,*  
37 *when that act is with a patient, or with a former patient within two*  
38 *years following termination of therapy, shall contain an order of*  
39 *revocation. The revocation shall not be stayed by the administrative*  
40 *law judge.*

1 (b) Except as otherwise provided, any proposed decision or  
2 decision issued under this chapter in accordance with the  
3 procedures set forth in Chapter 5 (commencing with Section 11500)  
4 of Part 1 of Division 3 of Title 2 of the Government Code, that  
5 contains any finding of fact that the licensee has committed a sex  
6 offense, shall contain an order revoking the license. The proposed  
7 decision or decision shall not contain any order staying the  
8 revocation of the licensee.

9 (c) As used in this section, the term sex offense shall mean any  
10 of the following:

11 (1) Any offense for which registration is required by Section  
12 290 of the Penal Code or a finding that a person committed such  
13 an act.

14 (2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,  
15 or 647(a) or (d) of the Penal Code or a finding that a person  
16 committed such an act.

17 (3) Any attempt to commit any of the offenses specified in this  
18 section.

19 (4) Any offense committed or attempted in any other state or  
20 against the laws of the United States which, if committed or  
21 attempted in this state, would have been punishable as one or more  
22 of the offenses specified in this section.

23 SEC. 91. Section 2969.1 is added to the Business and  
24 Professions Code, to read:

25 2969.1. (a) The board may delegate to its executive officer the  
26 authority to adopt a proposed default decision where an  
27 administrative action to revoke a license has been filed and the  
28 licensee has failed to file a notice of defense or to appear at the  
29 hearing and a proposed default decision revoking the license has  
30 been issued.

31 (b) The board may delegate to its executive officer the authority  
32 to adopt a proposed settlement agreement where an administrative  
33 action to revoke a license has been filed by the board and the  
34 licensee has agreed to the revocation or surrender of his or her  
35 license.

36 (c) The executive officer shall, at scheduled board meetings,  
37 report to the board the number of proposed default decisions or  
38 proposed settlement agreements adopted pursuant to this section.

39 SEC. 92. Section 2969.2 is added to the Business and  
40 Professions Code, to read:

1     2969.2. (a) Notwithstanding Section 11415.60 of the  
2     Government Code, the board may enter into a settlement with a  
3     licensee or applicant in lieu of the issuance of an accusation or  
4     statement of issues against that licensee or applicant, as applicable.

5     (b) The settlement shall include language identifying the factual  
6     basis for the action being taken and a list of the statutes or  
7     regulations violated.

8     (c) A person who enters a settlement pursuant to this section is  
9     not precluded from filing a petition, in the timeframe permitted by  
10    law, to modify the terms of the settlement or petition for early  
11    termination of probation, if probation is part of the settlement.

12    (d) Any settlement against a licensee executed pursuant to this  
13    section shall be considered discipline and a public record and  
14    shall be posted on the applicable board's Internet Web site. Any  
15    settlement against an applicant executed pursuant to this section  
16    shall be considered a public record and shall be posted on the  
17    applicable board's Internet Web site.

18    (e) The executive officer shall, at scheduled board meetings,  
19    report to the board the number of proposed settlement agreements  
20    adopted pursuant to this section.

21    SEC. 93. Section 2969.3 is added to the Business and  
22    Professions Code, to read:

23    2969.3. Unless otherwise provided, on or after July 1, 2013,  
24    the board shall post on its Internet Web site the following  
25    information, including the name and license number, in its  
26    possession, custody, or control regarding every licensee for which  
27    the board licenses:

28    (a) With regard to the status of every license, whether or not  
29    the licensee or former licensee is in good standing, subject to a  
30    temporary restraining order, subject to an interim suspension  
31    order, subject to a restriction or cease practice ordered pursuant  
32    to Section 23 of the Penal Code, or subject to any of the  
33    enforcement actions described in Section 803.1.

34    (b) With regard to prior discipline of a licensee, whether or not  
35    the licensee or former licensee has been subject to discipline by  
36    the board or by the board of another state or jurisdiction, as  
37    described in Section 803.1.

38    (c) Any felony conviction of a licensee reported to the board.

39    (d) All current accusations filed by the Attorney General,  
40    including those accusations that are on appeal. For purposes of

1 *this paragraph, “current accusation” means an accusation that*  
2 *has not been dismissed, withdrawn, or settled, and has not been*  
3 *finally decided upon by an administrative law judge and the board*  
4 *unless an appeal of that decision is pending.*

5 *(e) Any malpractice judgment or arbitration award imposed*  
6 *against a licensee and reported to the board.*

7 *(f) Any hospital disciplinary action imposed against a licensee*  
8 *that resulted in the termination or revocation of a licensee’s*  
9 *hospital staff privileges for a medical disciplinary cause or reason*  
10 *pursuant to Section 805.*

11 *(g) Any misdemeanor conviction of a licensee that results in a*  
12 *disciplinary action or an accusation that is not subsequently*  
13 *withdrawn or dismissed.*

14 *(h) Appropriate disclaimers and explanatory statements to*  
15 *accompany the above information, including an explanation of*  
16 *what types of information are not disclosed. These disclaimers*  
17 *and statements shall be developed by the board and shall be*  
18 *adopted by regulation.*

19 *(i) The information provided on the Internet shall be in*  
20 *accordance with the California Public Records Act (Chapter 3.5*  
21 *(commencing with Section 6250) of Division 7 of Title 1 of the*  
22 *Government Code) and the Information Practices Act of 1977*  
23 *(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4*  
24 *of Division 3 of the Civil Code) and shall comply with the*  
25 *Department of Consumer Affairs Guidelines for Access to Public*  
26 *Records.*

27 *(j) Information provided on the Internet may not include*  
28 *personal information, unless otherwise provided pursuant to this*  
29 *chapter, including the home telephone number, date of birth, or*  
30 *social security number. The information may not include the*  
31 *licensee’s address, but may include the city and county of the*  
32 *licensee’s address of record.*

33 *SEC. 94. Section 2969.4 is added to the Business and*  
34 *Professions Code, to read:*

35 *2969.4. (a) Unless otherwise provided, if a licensee possesses*  
36 *a license or is otherwise authorized to practice in any state other*  
37 *than California or by any agency of the federal government and*  
38 *that license or authority is suspended or revoked outright, the*  
39 *California license of the licensee shall be suspended automatically*  
40 *for the duration of the suspension or revocation, unless terminated*

1 or rescinded as provided in subdivision (c). The board shall notify  
2 the licensee of the license suspension and of his or her right to  
3 have the issue of penalty heard as provided in this section.

4 (b) Upon its own motion or for good cause shown, the board  
5 may decline to impose or may set aside the suspension when it  
6 appears to be in the interest of justice to do so, with due regard  
7 to maintaining the integrity of, and confidence in, the specific  
8 healing art.

9 (c) The issue of penalty shall be heard by an administrative law  
10 judge sitting alone or with a panel of the board, in the discretion  
11 of the board. A licensee may request a hearing on the penalty and  
12 that hearing shall be held within 90 days from the date of the  
13 request. If the order suspending or revoking the license or authority  
14 to practice is overturned on appeal, any discipline ordered  
15 pursuant to this section shall automatically cease. Upon a showing  
16 to the administrative law judge or panel by the licensee that the  
17 out-of-state action is not a basis for discipline in California, the  
18 suspension shall be rescinded. If an accusation for permanent  
19 discipline is not filed within 90 days of the suspension imposed  
20 pursuant to this section, the suspension shall automatically  
21 terminate.

22 (d) The record of the proceedings that resulted in the suspension  
23 or revocation of the licensee's out-of-state license or authority to  
24 practice, including a transcript of the testimony therein, may be  
25 received in evidence.

26 (e) This section shall not apply to a licensee who maintains his  
27 or her primary practice in California, as evidenced by having  
28 maintained a practice in this state for not less than one year  
29 immediately preceding the date of suspension or revocation.  
30 Nothing in this section shall preclude a licensee's license from  
31 being suspended pursuant to any other provision of law.

32 (f) This section shall not apply to a licensee whose license has  
33 been surrendered, whose only discipline is a medical staff  
34 disciplinary action at a federal hospital and not for medical  
35 disciplinary cause or reason as that term is defined in Section 805,  
36 or whose revocation or suspension has been stayed, even if the  
37 licensee remains subject to terms of probation or other discipline.

38 (g) This section shall not apply to a suspension or revocation  
39 imposed by a state that is based solely on the prior discipline of  
40 the licensee by another state.

1     (h) *The other provisions of this article setting forth a procedure*  
2 *for the suspension or revocation of a licensee's license or*  
3 *certificate shall not apply to summary suspensions issued pursuant*  
4 *to this section. If a summary suspension has been issued pursuant*  
5 *to this section, the licensee may request that the hearing on the*  
6 *penalty conducted pursuant to subdivision (c) be held at the same*  
7 *time as a hearing on the accusation.*

8     (i) *A board that complies with Section 2310 shall not be subject*  
9 *to the requirements of this section.*

10    SEC. 95. *Section 3112 is added to the Business and Professions*  
11 *Code, to read:*

12    3112. (a) *The board may delegate to its executive officer the*  
13 *authority to adopt a proposed default decision where an*  
14 *administrative action to revoke a certificate of registration has*  
15 *been filed and the registrant has failed to file a notice of defense*  
16 *or to appear at the hearing and a proposed default decision*  
17 *revoking the certificate of registration has been issued.*

18    (b) *The board may delegate to its executive officer the authority*  
19 *to adopt a proposed settlement agreement where an administrative*  
20 *action to revoke a certificate of registration has been filed by the*  
21 *board and the registrant has agreed to the revocation or surrender*  
22 *of his or her certificate of registration.*

23    (c) *The executive officer shall, at scheduled board meetings,*  
24 *report to the board the number of proposed default decisions or*  
25 *proposed settlement agreements adopted pursuant to this section.*

26    SEC. 96. *Section 3112.1 is added to the Business and*  
27 *Professions Code, to read:*

28    3112.1. (a) *Notwithstanding Section 11415.60 of the*  
29 *Government Code, the board may enter into a settlement with a*  
30 *registrant or applicant in lieu of the issuance of an accusation or*  
31 *statement of issues against that registrant or applicant, as*  
32 *applicable.*

33    (b) *The settlement shall include language identifying the factual*  
34 *basis for the action being taken and a list of the statutes or*  
35 *regulations violated.*

36    (c) *A person who enters a settlement pursuant to this section is*  
37 *not precluded from filing a petition, in the timeframe permitted by*  
38 *law, to modify the terms of the settlement or petition for early*  
39 *termination of probation, if probation is part of the settlement.*

1     (d) Any settlement against a registrant executed pursuant to  
2     this section shall be considered discipline and a public record and  
3     shall be posted on the applicable board's Internet Web site. Any  
4     settlement against an applicant executed pursuant to this section  
5     shall be considered a public record and shall be posted on the  
6     applicable board's Internet Web site.

7     (e) The executive officer shall, at scheduled board meetings,  
8     report to the board the number of proposed settlement agreements  
9     adopted pursuant to this section.

10    SEC. 97. Section 3112.2 is added to the Business and  
11    Professions Code, to read:

12    3112.2. (a) The certificate of registration of a registrant shall  
13    be suspended automatically during any time that the registrant is  
14    incarcerated after conviction of a felony, regardless of whether  
15    the conviction has been appealed. The board shall, immediately  
16    upon receipt of the certified copy of the record of conviction,  
17    determine whether the certificate of registration of the registrant  
18    has been automatically suspended by virtue of his or her  
19    incarceration, and if so, the duration of that suspension. The board  
20    shall notify the registrant in writing of the certificate of registration  
21    suspension and of his or her right to elect to have the issue of  
22    penalty heard as provided in subdivision (d).

23    (b) Upon receipt of the certified copy of the record of conviction,  
24    if after a hearing before an administrative law judge from the  
25    Office of Administrative Hearings it is determined that the felony  
26    for which the registrant was convicted was substantially related  
27    to the qualifications, functions, or duties of a registrant, the board  
28    shall suspend the certificate of registration until the time for appeal  
29    has elapsed, if no appeal has been taken, or until the judgment of  
30    conviction has been affirmed on appeal or has otherwise become  
31    final, and until further order of the board.

32    (c) Notwithstanding subdivision (b), a conviction of a charge  
33    of violating any federal statute or regulation or any statute or  
34    regulation of this state, regulating dangerous drugs or controlled  
35    substances, or a conviction of Section 187, 261, 262, or 288 of the  
36    Penal Code, shall be conclusively presumed to be substantially  
37    related to the qualifications, functions, or duties of a registrant  
38    and no hearing shall be held on this issue. However, upon its own  
39    motion or for good cause shown, the board may decline to impose  
40    or may set aside the suspension when it appears to be in the interest

1 of justice to do so, with due regard to maintaining the integrity of,  
2 and confidence in, the practice regulated by the board.

3 (d) (1) Discipline may be ordered against a registrant in  
4 accordance with the statutes and regulations of the board when  
5 the time for appeal has elapsed, the judgment of conviction has  
6 been affirmed on appeal, or an order granting probation is made  
7 suspending the imposition of sentence, irrespective of a subsequent  
8 order under Section 1203.4 of the Penal Code allowing the person  
9 to withdraw his or her plea of guilty and to enter a plea of not  
10 guilty, setting aside the verdict of guilty, or dismissing the  
11 accusation, complaint, information, or indictment.

12 (2) The issue of penalty shall be heard by an administrative law  
13 judge from the Office of Administrative Hearings. The hearing  
14 shall not be had until the judgment of conviction has become final  
15 or, irrespective of a subsequent order under Section 1203.4 of the  
16 Penal Code, an order granting probation has been made  
17 suspending the imposition of sentence; except that a registrant  
18 may, at his or her option, elect to have the issue of penalty decided  
19 before those time periods have elapsed. Where the registrant so  
20 elects, the issue of penalty shall be heard in the manner described  
21 in subdivision (b) at the hearing to determine whether the  
22 conviction was substantially related to the qualifications, functions,  
23 or duties of a registrant. If the conviction of a registrant who has  
24 made this election is overturned on appeal, any discipline ordered  
25 pursuant to this section shall automatically cease. Nothing in this  
26 subdivision shall prohibit the board from pursuing disciplinary  
27 action based on any cause other than the overturned conviction.

28 (e) The record of the proceedings resulting in a conviction,  
29 including a transcript of the testimony in those proceedings, may  
30 be received in evidence.

31 (f) Any other provision of law setting forth a procedure for the  
32 suspension or revocation of a certificate of registration issued by  
33 the board shall not apply to proceedings conducted pursuant to  
34 this section.

35 SEC. 98. Section 3112.3 is added to the Business and  
36 Professions Code, to read:

37 3112.3. (a) Except as otherwise provided, any proposed  
38 decision or decision issued in accordance with the procedures set  
39 forth in Chapter 5 (commencing with Section 11500) of Part 1 of  
40 Division 3 of Title 2 of the Government Code, that contains any



1 *finding of fact that the registrant engaged in any act of sexual*  
2 *contact with a patient, as defined in subdivision (c) of Section 729,*  
3 *or any finding that the licensee has committed a sex offense, shall*  
4 *contain an order revoking the license. The proposed decision shall*  
5 *not contain any order staying the revocation of the certificate.*

6 *(b) As used in this section, the term sex offense shall mean any*  
7 *of the following:*

8 *(1) Any offense for which registration is required by Section*  
9 *290 of the Penal Code or a finding that a person committed such*  
10 *an act.*

11 *(2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,*  
12 *or 647(a) or (d) of the Penal Code or a finding that a person*  
13 *committed such an act.*

14 *(3) Any attempt to commit any of the offenses specified in this*  
15 *section.*

16 *(4) Any offense committed or attempted in any other state or*  
17 *against the laws of the United States which, if committed or*  
18 *attempted in this state, would have been punishable as one or more*  
19 *of the offenses specified in this section.*

20 *SEC. 99. Section 3112.4 is added to the Business and*  
21 *Professions Code, to read:*

22 *3112.4. (a) Except as otherwise provided, with regard to an*  
23 *individual who is required to register as a sex offender pursuant*  
24 *to Section 290 of the Penal Code, or the equivalent in another*  
25 *state or territory, under military law, or under federal law, the*  
26 *board shall be subject to the following requirements:*

27 *(1) The board shall deny an application by the individual for*  
28 *registration in accordance with the procedures set forth in Chapter*  
29 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
30 *2 of the Government Code.*

31 *(2) If the individual is registered under this chapter, the board*  
32 *shall promptly revoke the certificate of registration of the*  
33 *individual in accordance with the procedures set forth in Chapter*  
34 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
35 *2 of the Government Code. The board shall not stay the revocation*  
36 *and place the certificate of registration on probation.*

37 *(3) The board shall not reinstate or reissue the individual's*  
38 *certificate of registration. The board shall not issue a stay of*  
39 *certificate of registration denial nor place the certificate of*  
40 *registration on probation.*

1     **(b)** *This section shall not apply to any of the following:*

2     **(1)** *An individual who has been relieved under Section 290.5 of*  
3 *the Penal Code of his or her duty to register as a sex offender, or*  
4 *whose duty to register has otherwise been formally terminated*  
5 *under California law or the law of the jurisdiction that requires*  
6 *his or her registration as a sex offender.*

7     **(2)** *An individual who is required to register as a sex offender*  
8 *pursuant to Section 290 of the Penal Code solely because of a*  
9 *misdemeanor conviction under Section 314 of the Penal Code.*  
10 *However, nothing in this paragraph shall prohibit the board from*  
11 *exercising its discretion to discipline a licensee under any other*  
12 *provision of state law based upon the licensee's conviction under*  
13 *Section 314 of the Penal Code.*

14     **(3)** *Any administrative adjudication proceeding under Chapter*  
15 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
16 *2 of the Government Code that is fully adjudicated prior to January*  
17 *1, 2008. A petition for reinstatement of a revoked or surrendered*  
18 *license shall be considered a new proceeding for purposes of this*  
19 *paragraph, and the prohibition against reinstating a certificate of*  
20 *registration to an individual who is required to register as a sex*  
21 *offender shall be applicable.*

22     **SEC. 100.** *Section 3112.5 is added to the Business and*  
23 *Professions Code, to read:*

24     **3112.5.** *(a) Notwithstanding any other provision of law making*  
25 *a communication between a registrant and his or her patients a*  
26 *privileged communication, those provisions shall not apply to*  
27 *investigations or proceedings conducted by the board. Members*  
28 *of the board, deputies, employees, agents, the office of the Attorney*  
29 *General, and representatives of the board shall keep in confidence*  
30 *during the course of investigations the names of any patients whose*  
31 *records are reviewed and may not disclose or reveal those names,*  
32 *except as is necessary during the course of an investigation, unless*  
33 *and until proceedings are instituted. The authority under this*  
34 *subdivision to examine records of patients in the office of a licensee*  
35 *is limited to records of patients who have complained to the board*  
36 *about that licensee.*

37     **(b)** *Notwithstanding any other provision of law, the Attorney*  
38 *General and his or her investigative agents, and the board and its*  
39 *investigators and representatives may inquire into any alleged*  
40 *violation of the laws under the jurisdiction of the board or any*

1 *other federal or state law, regulation, or rule relevant to the*  
2 *practice regulated by the board, whichever is applicable, and may*  
3 *inspect documents relevant to those investigations in accordance*  
4 *with the following procedures:*

5 *(1) Any document relevant to an investigation may be inspected,*  
6 *and copies may be obtained, where a patient provides written*  
7 *authorization.*

8 *(2) Any document relevant to the business operations of a*  
9 *registrant, and not involving medical records attributable to*  
10 *identifiable patients, may be inspected and copied where relevant*  
11 *to an investigation of a licensee.*

12 *(c) In all cases where documents are inspected or copies of*  
13 *those documents are received, their acquisition or review shall be*  
14 *arranged so as not to unnecessarily disrupt the medical and*  
15 *business operations of the registrant or of the facility where the*  
16 *records are kept or used.*

17 *(d) Where certified documents are lawfully requested from*  
18 *registrants in accordance with this section by the Attorney General*  
19 *or his or her agents or deputies, or investigators of any board, the*  
20 *documents shall be provided within 10 business days of receipt of*  
21 *the request, unless the registrant is unable to provide the certified*  
22 *documents within this time period for good cause, including, but*  
23 *not limited to, physical inability to access the records in the time*  
24 *allowed due to illness or travel. Failure to produce requested*  
25 *certified documents or copies thereof, after being informed of the*  
26 *required deadline, shall constitute unprofessional conduct. A board*  
27 *may use its authority to cite and fine a registrant for any violation*  
28 *of this section. This remedy is in addition to any other authority*  
29 *of the board to sanction a licensee for a delay in producing*  
30 *requested records.*

31 *(e) Searches conducted of the office or medical facility of any*  
32 *licensee shall not interfere with the recordkeeping format or*  
33 *preservation needs of any licensee necessary for the lawful care*  
34 *of patients.*

35 *(f) The registrant shall cooperate with the board in furnishing*  
36 *information or assistance as may be required, including, but not*  
37 *limited to, participation in an interview with investigators or*  
38 *representatives of the board.*

39 *(g) This section shall not apply to a licensee who does not have*  
40 *access to, and control over, certified medical records or other*

1 types of documents that belong to or are controlled by a health  
2 facility or clinic.

3 SEC. 101. Section 3112.6 is added to the Business and  
4 Professions Code, to read:

5 3112.6. (a) (1) Notwithstanding any other provision of law,  
6 a registrant who fails or refuses to comply with a request for the  
7 certified medical records of a patient that is accompanied by that  
8 patient's written authorization for release of records to a board  
9 together with a notice citing this section and describing the  
10 penalties for failure to comply with this section shall be required  
11 to pay to the board a civil penalty of up to one thousand dollars  
12 (\$1,000) per day for each day that the documents have not been  
13 produced after the 15th day, up to ten thousand dollars (\$10,000),  
14 unless the registrant is unable to provide the documents within  
15 this time period for good cause.

16 (2) A health care facility shall comply with a request for the  
17 certified medical records of a patient that is accompanied by that  
18 patient's written authorization for release of records to a board  
19 together with a notice citing this section and describing the  
20 penalties for failure to comply with this section. Failure to provide  
21 the authorizing patient's certified medical records to the board  
22 within 15 days of receiving the request, authorization, and notice  
23 shall subject the health care facility to a civil penalty, payable to  
24 the board, of up to one thousand dollars (\$1,000) per day for each  
25 day that the documents have not been produced after the 15th day,  
26 up to ten thousand dollars (\$10,000), unless the health care facility  
27 is unable to provide the documents within this time period for good  
28 cause. This paragraph shall not require health care facilities to  
29 assist the board in obtaining the patient's authorization. The board  
30 shall pay the reasonable costs of copying the certified medical  
31 records, but shall not be required to make that payment prior to  
32 the production of the medical records.

33 (b) (1) A registrant who fails or refuses to comply with a court  
34 order, issued in the enforcement of a subpoena, mandating the  
35 release of records to the board, shall pay to the board a civil  
36 penalty of up to one thousand dollars (\$1,000) per day for each  
37 day that the documents have not been produced after the date by  
38 which the court order requires the documents to be produced, up  
39 to ten thousand dollars (\$10,000), unless it is determined that the  
40 order is unlawful or invalid. Any statute of limitations applicable

1 *to the filing of an accusation by the board shall be tolled during*  
2 *the period the licensee is out of compliance with the court order*  
3 *and during any related appeals.*

4 *(2) Any licensee who fails or refuses to comply with a court*  
5 *order, issued in the enforcement of a subpoena, mandating the*  
6 *release of records to a board is guilty of a misdemeanor punishable*  
7 *by a fine payable to the board not to exceed five thousand dollars*  
8 *(\$5,000). The fine shall be added to the licensee's renewal fee if*  
9 *it is not paid by the next succeeding renewal date. Any statute of*  
10 *limitations applicable to the filing of an accusation by the board*  
11 *shall be tolled during the period the licensee is out of compliance*  
12 *with the court order and during any related appeals.*

13 *(3) A health care facility that fails or refuses to comply with a*  
14 *court order, issued in the enforcement of a subpoena, mandating*  
15 *the release of patient records to the board, that is accompanied*  
16 *by a notice citing this section and describing the penalties for*  
17 *failure to comply with this section, shall pay to the board a civil*  
18 *penalty of up to one thousand dollars (\$1,000) per day for each*  
19 *day that the documents have not been produced, up to ten thousand*  
20 *dollars (\$10,000), after the date by which the court order requires*  
21 *the documents to be produced, unless it is determined that the*  
22 *order is unlawful or invalid. Any statute of limitations applicable*  
23 *to the filing of an accusation by the board against a licensee shall*  
24 *be tolled during the period the health care facility is out of*  
25 *compliance with the court order and during any related appeals.*

26 *(4) Any health care facility that fails or refuses to comply with*  
27 *a court order, issued in the enforcement of a subpoena, mandating*  
28 *the release of records to the board is guilty of a misdemeanor*  
29 *punishable by a fine payable to the board not to exceed five*  
30 *thousand dollars (\$5,000). Any statute of limitations applicable*  
31 *to the filing of an accusation by the board against a registrant*  
32 *shall be tolled during the period the health care facility is out of*  
33 *compliance with the court order and during any related appeals.*

34 *(c) Multiple acts by a licensee in violation of subdivision (b)*  
35 *shall be punishable by a fine not to exceed five thousand dollars*  
36 *(\$5,000) or by imprisonment in a county jail not exceeding six*  
37 *months, or by both that fine and imprisonment. Multiple acts by*  
38 *a health care facility in violation of subdivision (b) shall be*  
39 *punishable by a fine not to exceed five thousand dollars (\$5,000),*  
40 *shall be reported to the State Department of Public Health, and*

1 shall be considered as grounds for disciplinary action with respect  
2 to licensure, including suspension or revocation of the certificate.

3 (d) A failure or refusal of a registrant to comply with a court  
4 order, issued in the enforcement of a subpoena, mandating the  
5 release of records to the board constitutes unprofessional conduct  
6 and is grounds for suspension or revocation of his or her  
7 certificate.

8 (e) Imposition of the civil penalties authorized by this section  
9 shall be in accordance with the Administrative Procedure Act  
10 (Chapter 5 (commencing with Section 11500) of Division 3 of Title  
11 2 of the Government Code). Any civil penalties paid to, or received  
12 by, the board pursuant to this section shall be deposited into the  
13 fund administered by the board.

14 (f) For purposes of this section, “certified medical records”  
15 means a copy of the patient’s medical records authenticated by  
16 the licensee or health care facility, as appropriate, on a form  
17 prescribed by the licensee’s board.

18 (g) For purposes of this section, a “health care facility” means  
19 a clinic or health facility licensed or exempt from licensure  
20 pursuant to Division 2 (commencing with Section 1200) of the  
21 Health and Safety Code.

22 (h) If a board complies with Section 1684.1, 2225.5, or 2969,  
23 that board shall not be subject to the requirements of this section.

24 (i) This section shall not apply to a registrant who does not have  
25 access to, or control over, certified medical records or other types  
26 of documents that belong to or are controlled by a health facility  
27 or clinic.

28 SEC. 102. Section 3112.7 is added to the Business and  
29 Professions Code, to read:

30 3112.7. (a) Notwithstanding any other provision of law, any  
31 employer of a licensee shall report to the board the suspension or  
32 termination for cause, or any resignation in lieu of suspension or  
33 termination for cause, of any licensee in its employ within 15  
34 business days. The report shall not be made until after the  
35 conclusion of the review process specified in Section 52.3 of Title  
36 2 of the California Code of Regulations and *Skelly v. State*  
37 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This  
38 required reporting shall not constitute a waiver of confidentiality  
39 of medical records. The information reported or disclosed shall

1 *be kept confidential except as provided in subdivision (c) of Section*  
2 *800 and shall not be subject to discovery in civil cases.*

3 *(b) The information to be reported by the employer shall include*  
4 *the name and license number of the licensee involved, a*  
5 *description of the facts and circumstances of the suspension or*  
6 *termination for cause, any resignation in lieu of suspension or*  
7 *termination for cause, and any other relevant information deemed*  
8 *appropriate by the employer.*

9 *(c) The board shall be entitled to inspect and copy the following*  
10 *documents in the record for any suspension or termination for*  
11 *cause, or any resignation in lieu of suspension or termination for*  
12 *cause, resulting in action that is required to be reported pursuant*  
13 *to this section:*

14 *(1) Any statement for suspension or termination of the registrant.*

15 *(2) Any document or exhibits relevant to the suspension or*  
16 *termination.*

17 *(d) If, during the investigation by the board of the cause for the*  
18 *termination or suspension or resignation of the registrant, it is*  
19 *found that there has been a violation of existing state or federal*  
20 *law, the board shall report the violation to the appropriate agency.*

21 *(e) For purposes of this section, “suspension or termination for*  
22 *cause” or “resignation in lieu of suspension or termination for*  
23 *cause” is defined as resignation, suspension, or termination from*  
24 *employment for any of the following reasons:*

25 *(1) Use of controlled substances or alcohol to the extent that it*  
26 *impairs the licensee’s ability to safely practice.*

27 *(2) Unlawful sale of a controlled substance or other prescription*  
28 *items.*

29 *(3) Patient or client abuse, neglect, physical harm, or sexual*  
30 *contact with a patient or client.*

31 *(4) Gross negligence or incompetence.*

32 *(5) Theft from a patient or client, any other employee, or the*  
33 *employer.*

34 *(f) As used in this section, the following definitions apply:*

35 *(1) “Gross negligence” means a substantial departure from the*  
36 *standard of care, which, under similar circumstances, would have*  
37 *ordinarily been exercised by a competent licensee, and which has*  
38 *or could have resulted in harm to the consumer. An exercise of so*  
39 *slight a degree of care as to justify the belief that there was a*  
40 *conscious disregard or indifference for the health, safety, or*

1 *welfare of the consumer shall be considered a substantial departure*  
2 *from the standard of care.*

3 (2) *“Incompetence” means the lack of possession of, and the*  
4 *failure to exercise that degree of learning, skill, care, and*  
5 *experience ordinarily possessed by, a responsible licensee.*

6 (3) *“Willful” means a knowing and intentional violation of a*  
7 *known legal duty.*

8 (g) (1) *Willful failure of an employer to make a report required*  
9 *by this section is punishable by an administrative fine not to exceed*  
10 *one hundred thousand dollars (\$100,000) per violation.*

11 (2) *Any failure of an employer, other than willful failure, to*  
12 *make a report required by this section is punishable by an*  
13 *administrative fine not to exceed fifty thousand dollars (\$50,000).*

14 (h) *The board shall investigate the circumstances underlying*  
15 *any report received pursuant to this section within 30 days to*  
16 *determine if an interim suspension order or temporary restraining*  
17 *order should be issued. The board shall otherwise provide timely*  
18 *disposition of the reports received pursuant to this section.*

19 (i) *The board shall send to the licentiate a copy of the report*  
20 *along with the reasons for the filing of the report and notice*  
21 *advising the licentiate of his or her right to submit additional*  
22 *statements or other information to the board.*

23 (j) *Pursuant to Section 43.8 of the Civil Code, no person shall*  
24 *incur any civil penalty as a result of making any report required*  
25 *by this article.*

26 (k) *No report is required under this section where a report of*  
27 *the action taken is already required under Section 805.*

28 SEC. 103. *Section 3112.8 is added to the Business and*  
29 *Professions Code, to read:*

30 3112.8. *Unless otherwise provided, on or after July 1, 2013,*  
31 *the board shall post on its Internet Web site the following*  
32 *information, including the name and license number, in its*  
33 *possession, custody, or control regarding every registrant for*  
34 *which the board licenses:*

35 (a) *With regard to the status of every registrant, whether or not*  
36 *the registrant or former registrant is in good standing, subject to*  
37 *a temporary restraining order, subject to an interim suspension*  
38 *order, subject to a restriction or cease practice ordered pursuant*  
39 *to Section 23 of the Penal Code, or subject to any of the*  
40 *enforcement actions described in Section 803.1.*



1     (b) With regard to prior discipline of a registrant, whether or  
2     not the registrant or former registrant has been subject to discipline  
3     by the board or by the board of another state or jurisdiction, as  
4     described in Section 803.1.

5     (c) Any felony conviction of a registrant reported to the board.

6     (d) All current accusations filed by the Attorney General,  
7     including those accusations that are on appeal. For purposes of  
8     this paragraph, “current accusation” means an accusation that  
9     has not been dismissed, withdrawn, or settled, and has not been  
10    finally decided upon by an administrative law judge and the board  
11    unless an appeal of that decision is pending.

12    (e) Any malpractice judgment or arbitration award imposed  
13    against a licensee and reported to the board.

14    (f) Any hospital disciplinary action imposed against a registrant  
15    that resulted in the termination or revocation of a registrant’s  
16    hospital staff privileges for a medical disciplinary cause or reason  
17    pursuant to Section 3112.6 or 805.

18    (g) Any misdemeanor conviction of a registrant that results in  
19    a disciplinary action or an accusation that is not subsequently  
20    withdrawn or dismissed.

21    (h) Appropriate disclaimers and explanatory statements to  
22    accompany the above information, including an explanation of  
23    what types of information are not disclosed. These disclaimers  
24    and statements shall be developed by the board and shall be  
25    adopted by regulation.

26    (i) The information provided on the Internet shall be in  
27    accordance with the California Public Records Act (Chapter 3.5  
28    (commencing with Section 6250) of Division 7 of Title 1 of the  
29    Government Code) and the Information Practices Act of 1977  
30    (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4  
31    of Division 3 of the Civil Code) and shall comply with the  
32    Department of Consumer Affairs Guidelines for Access to Public  
33    Records.

34    (j) Information provided on the Internet may not include  
35    personal information, unless otherwise provided pursuant to this  
36    chapter, including the home telephone number, date of birth, or  
37    social security number. The information may not include the  
38    licensee’s address, but may include the city and county of the  
39    licensee’s address of record.

1     SEC. 104. Section 3112.9 is added to the Business and  
2     Professions Code, to read:

3     3112.9. (a) Unless otherwise provided, if a registrant possesses  
4     a license or is otherwise authorized to practice in any state other  
5     than California or by any agency of the federal government and  
6     that license or authority is suspended or revoked outright, the  
7     California license of the licensee shall be suspended automatically  
8     for the duration of the suspension or revocation, unless terminated  
9     or rescinded as provided in subdivision (c). The board shall notify  
10    the licensee of the license suspension and of his or her right to  
11    have the issue of penalty heard as provided in this section.

12    (b) Upon its own motion or for good cause shown, the board  
13    may decline to impose or may set aside the suspension when it  
14    appears to be in the interest of justice to do so, with due regard  
15    to maintaining the integrity of, and confidence in, the specific  
16    healing art.

17    (c) The issue of penalty shall be heard by an administrative law  
18    judge sitting alone or with a panel of the board, in the discretion  
19    of the board. A licensee may request a hearing on the penalty and  
20    that hearing shall be held within 90 days from the date of the  
21    request. If the order suspending or revoking the certificate or  
22    authority to practice is overturned on appeal, any discipline  
23    ordered pursuant to this section shall automatically cease. Upon  
24    a showing to the administrative law judge or panel by the licensee  
25    that the out-of-state action is not a basis for discipline in  
26    California, the suspension shall be rescinded. If an accusation for  
27    permanent discipline is not filed within 90 days of the suspension  
28    imposed pursuant to this section, the suspension shall automatically  
29    terminate.

30    (d) The record of the proceedings that resulted in the suspension  
31    or revocation of the licensee's out-of-state license or authority to  
32    practice, including a transcript of the testimony therein, may be  
33    received in evidence.

34    (e) This section shall not apply to a registrant who maintains  
35    his or her primary practice in California, as evidenced by having  
36    maintained a practice in this state for not less than one year  
37    immediately preceding the date of suspension or revocation.  
38    Nothing in this section shall preclude a registrant's license from  
39    being suspended pursuant to any other provision of law.

1     (f) *This section shall not apply to a registrant whose license has*  
2 *been surrendered, whose only discipline is a medical staff*  
3 *disciplinary action at a federal hospital and not for medical*  
4 *disciplinary cause or reason as that term is defined in Section 805,*  
5 *or whose revocation or suspension has been stayed, even if the*  
6 *licensee remains subject to terms of probation or other discipline.*

7     (g) *This section shall not apply to a suspension or revocation*  
8 *imposed by a state that is based solely on the prior discipline of*  
9 *the registrant by another state.*

10    (h) *The other provisions of this article setting forth a procedure*  
11 *for the suspension or revocation of a licensee's license or*  
12 *certificate shall not apply to summary suspensions issued pursuant*  
13 *to this section. If a summary suspension has been issued pursuant*  
14 *to this section, the licensee may request that the hearing on the*  
15 *penalty conducted pursuant to subdivision (c) be held at the same*  
16 *time as a hearing on the accusation.*

17    (i) *A board that complies with Section 2310 shall not be subject*  
18 *to the requirements of this section.*

19    SEC. 105. *Section 3405 is added to the Business and*  
20 *Professions Code, to read:*

21    3405. (a) *The board may delegate to its executive officer the*  
22 *authority to adopt a proposed default decision where an*  
23 *administrative action to revoke a license has been filed and the*  
24 *licensee has failed to file a notice of defense or to appear at the*  
25 *hearing and a proposed default decision revoking the license has*  
26 *been issued.*

27    (b) *The board may delegate to its executive officer the authority*  
28 *to adopt a proposed settlement agreement where an administrative*  
29 *action to revoke a license has been filed by the board and the*  
30 *licensee has agreed to the revocation or surrender of his or her*  
31 *license.*

32    (c) *The executive officer shall, at scheduled board meetings,*  
33 *report to the board the number of proposed default decisions or*  
34 *proposed settlement agreements adopted pursuant to this section.*

35    SEC. 106. *Section 3405.1 is added to the Business and*  
36 *Professions Code, to read:*

37    3405.1. (a) *Notwithstanding Section 11415.60 of the*  
38 *Government Code, the board may enter into a settlement with a*  
39 *licensee or applicant in lieu of the issuance of an accusation or*  
40 *statement of issues against that licensee or applicant, as applicable.*

1     (b) *The settlement shall include language identifying the factual*  
2 *basis for the action being taken and a list of the statutes or*  
3 *regulations violated.*

4     (c) *A person who enters a settlement pursuant to this section is*  
5 *not precluded from filing a petition, in the timeframe permitted by*  
6 *law, to modify the terms of the settlement or petition for early*  
7 *termination of probation, if probation is part of the settlement.*

8     (d) *Any settlement against a licensee executed pursuant to this*  
9 *section shall be considered discipline and a public record and*  
10 *shall be posted on the applicable board's Internet Web site. Any*  
11 *settlement against an applicant executed pursuant to this section*  
12 *shall be considered a public record and shall be posted on the*  
13 *applicable board's Internet Web site.*

14     (e) *The executive officer shall, at scheduled board meetings,*  
15 *report to the board the number of proposed settlement agreements*  
16 *adopted pursuant to this section.*

17     SEC. 107. *Section 3405.2 is added to the Business and*  
18 *Professions Code, to read:*

19     3405.2. (a) *The license of a licensee shall be suspended*  
20 *automatically during any time that the licensee is incarcerated*  
21 *after conviction of a felony, regardless of whether the conviction*  
22 *has been appealed. The board shall, immediately upon receipt of*  
23 *the certified copy of the record of conviction, determine whether*  
24 *the license of the licensee has been automatically suspended by*  
25 *virtue of his or her incarceration, and if so, the duration of that*  
26 *suspension. The board shall notify the licensee in writing of the*  
27 *license suspension and of his or her right to elect to have the issue*  
28 *of penalty heard as provided in subdivision (d).*

29     (b) *Upon receipt of the certified copy of the record of conviction,*  
30 *if after a hearing before an administrative law judge from the*  
31 *Office of Administrative Hearings it is determined that the felony*  
32 *for which the licensee was convicted was substantially related to*  
33 *the qualifications, functions, or duties of a licensee, the board*  
34 *shall suspend the license until the time for appeal has elapsed, if*  
35 *no appeal has been taken, or until the judgment of conviction has*  
36 *been affirmed on appeal or has otherwise become final, and until*  
37 *further order of the board.*

38     (c) *Notwithstanding subdivision (b), a conviction of a charge*  
39 *of violating any federal statute or regulation or any statute or*  
40 *regulation of this state, regulating dangerous drugs or controlled*

1 *substances, or a conviction of Section 187, 261, 262, or 288 of the*  
2 *Penal Code, shall be conclusively presumed to be substantially*  
3 *related to the qualifications, functions, or duties of a licensee and*  
4 *no hearing shall be held on this issue. However, upon its own*  
5 *motion or for good cause shown, the board may decline to impose*  
6 *or may set aside the suspension when it appears to be in the interest*  
7 *of justice to do so, with due regard to maintaining the integrity of,*  
8 *and confidence in, the practice regulated by the board.*

9 *(d) (1) Discipline may be ordered against a licensee in*  
10 *accordance with the statutes and regulations of the board when*  
11 *the time for appeal has elapsed, the judgment of conviction has*  
12 *been affirmed on appeal, or an order granting probation is made*  
13 *suspending the imposition of sentence, irrespective of a subsequent*  
14 *order under Section 1203.4 of the Penal Code allowing the person*  
15 *to withdraw his or her plea of guilty and to enter a plea of not*  
16 *guilty, setting aside the verdict of guilty, or dismissing the*  
17 *accusation, complaint, information, or indictment.*

18 *(2) The issue of penalty shall be heard by an administrative law*  
19 *judge from the Office of Administrative Hearings. The hearing*  
20 *shall not be had until the judgment of conviction has become final*  
21 *or, irrespective of a subsequent order under Section 1203.4 of the*  
22 *Penal Code, an order granting probation has been made*  
23 *suspending the imposition of sentence; except that a licensee may,*  
24 *at his or her option, elect to have the issue of penalty decided*  
25 *before those time periods have elapsed. Where the licensee so*  
26 *elects, the issue of penalty shall be heard in the manner described*  
27 *in subdivision (b) at the hearing to determine whether the*  
28 *conviction was substantially related to the qualifications, functions,*  
29 *or duties of a licensee. If the conviction of a licensee who has made*  
30 *this election is overturned on appeal, any discipline ordered*  
31 *pursuant to this section shall automatically cease. Nothing in this*  
32 *subdivision shall prohibit the board from pursuing disciplinary*  
33 *action based on any cause other than the overturned conviction.*

34 *(e) The record of the proceedings resulting in a conviction,*  
35 *including a transcript of the testimony in those proceedings, may*  
36 *be received in evidence.*

37 *(f) Any other provision of law setting forth a procedure for the*  
38 *suspension or revocation of a license issued by the board shall not*  
39 *apply to proceedings conducted pursuant to this section.*

1 SEC. 108. Section 3405.3 is added to the Business and  
2 Professions Code, to read:

3 3405.3. (a) Except as otherwise provided, any proposed  
4 decision or decision issued in accordance with the procedures set  
5 forth in Chapter 5 (commencing with Section 11500) of Part 1 of  
6 Division 3 of Title 2 of the Government Code, that contains any  
7 finding of fact that the licensee engaged in any act of sexual contact  
8 with a patient, as defined in subdivision (c) of Section 729, or any  
9 finding that the licensee has committed a sex offense, shall contain  
10 an order revoking the license. The proposed decision shall not  
11 contain any order staying the revocation of the licensee.

12 (b) As used in this section, the term sex offense shall mean any  
13 of the following:

14 (1) Any offense for which registration is required by Section  
15 290 of the Penal Code or a finding that a person committed such  
16 an act.

17 (2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,  
18 or 647(a) or (d) of the Penal Code or a finding that a person  
19 committed such an act.

20 (3) Any attempt to commit any of the offenses specified in this  
21 section.

22 (4) Any offense committed or attempted in any other state or  
23 against the laws of the United States which, if committed or  
24 attempted in this state, would have been punishable as one or more  
25 of the offenses specified in this section.

26 SEC. 109. Section 3405.4 is added to the Business and  
27 Professions Code, to read:

28 3405.4. (a) Except as otherwise provided, with regard to an  
29 individual who is required to register as a sex offender pursuant  
30 to Section 290 of the Penal Code, or the equivalent in another  
31 state or territory, under military law, or under federal law, the  
32 board shall be subject to the following requirements:

33 (1) The board shall deny an application by the individual for  
34 licensure in accordance with the procedures set forth in Chapter  
35 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
36 2 of the Government Code.

37 (2) If the individual is licensed under this chapter, the board  
38 shall promptly revoke the license of the individual in accordance  
39 with the procedures set forth in Chapter 5 (commencing with  
40 Section 11500) of Part 1 of Division 3 of Title 2 of the Government

1 *Code. The board shall not stay the revocation and place the license*  
2 *on probation.*

3 *(3) The board shall not reinstate or reissue the individual's*  
4 *license. The board shall not issue a stay of license denial nor place*  
5 *the license on probation.*

6 *(b) This section shall not apply to any of the following:*

7 *(1) An individual who has been relieved under Section 290.5 of*  
8 *the Penal Code of his or her duty to register as a sex offender, or*  
9 *whose duty to register has otherwise been formally terminated*  
10 *under California law or the law of the jurisdiction that requires*  
11 *his or her registration as a sex offender.*

12 *(2) An individual who is required to register as a sex offender*  
13 *pursuant to Section 290 of the Penal Code solely because of a*  
14 *misdemeanor conviction under Section 314 of the Penal Code.*  
15 *However, nothing in this paragraph shall prohibit the board from*  
16 *exercising its discretion to discipline a licensee under any other*  
17 *provision of state law based upon the licensee's conviction under*  
18 *Section 314 of the Penal Code.*

19 *(3) Any administrative adjudication proceeding under Chapter*  
20 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
21 *2 of the Government Code that is fully adjudicated prior to January*  
22 *1, 2008. A petition for reinstatement of a revoked or surrendered*  
23 *license shall be considered a new proceeding for purposes of this*  
24 *paragraph, and the prohibition against reinstating a license to an*  
25 *individual who is required to register as a sex offender shall be*  
26 *applicable.*

27 *SEC. 110. Section 3405.5 is added to the Business and*  
28 *Professions Code, to read:*

29 *3405.5. (a) Notwithstanding any other provision of law making*  
30 *a communication between a licensee and his or her patients a*  
31 *privileged communication, those provisions shall not apply to*  
32 *investigations or proceedings conducted by the board. Members*  
33 *of the board, deputies, employees, agents, the office of the Attorney*  
34 *General, and representatives of the board shall keep in confidence*  
35 *during the course of investigations the names of any patients whose*  
36 *records are reviewed and may not disclose or reveal those names,*  
37 *except as is necessary during the course of an investigation, unless*  
38 *and until proceedings are instituted. The authority under this*  
39 *subdivision to examine records of patients in the office of a licensee*

1 *is limited to records of patients who have complained to the board*  
2 *about that licensee.*

3 *(b) Notwithstanding any other provision of law, the Attorney*  
4 *General and his or her investigative agents, and the board and its*  
5 *investigators and representatives may inquire into any alleged*  
6 *violation of the laws under the jurisdiction of the board or any*  
7 *other federal or state law, regulation, or rule relevant to the*  
8 *practice regulated by the board, whichever is applicable, and may*  
9 *inspect documents relevant to those investigations in accordance*  
10 *with the following procedures:*

11 *(1) Any document relevant to an investigation may be inspected,*  
12 *and copies may be obtained, where a patient provides written*  
13 *authorization.*

14 *(2) Any document relevant to the business operations of a*  
15 *licensee, and not involving medical records attributable to*  
16 *identifiable patients, may be inspected and copied where relevant*  
17 *to an investigation of a licensee.*

18 *(c) In all cases where documents are inspected or copies of*  
19 *those documents are received, their acquisition or review shall be*  
20 *arranged so as not to unnecessarily disrupt the medical and*  
21 *business operations of the licensee or of the facility where the*  
22 *records are kept or used.*

23 *(d) Where certified documents are lawfully requested from*  
24 *licensees in accordance with this section by the Attorney General*  
25 *or his or her agents or deputies, or investigators of any board, the*  
26 *documents shall be provided within 10 business days of receipt of*  
27 *the request, unless the licensee is unable to provide the certified*  
28 *documents within this time period for good cause, including, but*  
29 *not limited to, physical inability to access the records in the time*  
30 *allowed due to illness or travel. Failure to produce requested*  
31 *certified documents or copies thereof, after being informed of the*  
32 *required deadline, shall constitute unprofessional conduct. A board*  
33 *may use its authority to cite and fine a licensee for any violation*  
34 *of this section. This remedy is in addition to any other authority*  
35 *of the board to sanction a licensee for a delay in producing*  
36 *requested records.*

37 *(e) Searches conducted of the office or medical facility of any*  
38 *licensee shall not interfere with the recordkeeping format or*  
39 *preservation needs of any licensee necessary for the lawful care*  
40 *of patients.*



1 (f) *The licensee shall cooperate with the board in furnishing*  
2 *information or assistance as may be required, including, but not*  
3 *limited to, participation in an interview with investigators or*  
4 *representatives of the board.*

5 (g) *This section shall not apply to a licensee who does not have*  
6 *access to, and control over, certified medical records or other*  
7 *types of documents that belong to or are controlled by a health*  
8 *facility or clinic.*

9 *SEC. 111. Section 3405.6 is added to the Business and*  
10 *Professions Code, to read:*

11 3405.6. (a) (1) *Notwithstanding any other provision of law,*  
12 *a licensee who fails or refuses to comply with a request for the*  
13 *certified medical records of a patient that is accompanied by that*  
14 *patient's written authorization for release of records to the board*  
15 *together with a notice citing this section and describing the*  
16 *penalties for failure to comply with this section shall be required*  
17 *to pay to the board a civil penalty of up to one thousand dollars*  
18 *(\$1,000) per day for each day that the documents have not been*  
19 *produced after the 15th day, up to ten thousand dollars (\$10,000),*  
20 *unless the licensee is unable to provide the documents within this*  
21 *time period for good cause.*

22 (2) *A health care facility shall comply with a request for the*  
23 *certified medical records of a patient that is accompanied by that*  
24 *patient's written authorization for release of records to the board*  
25 *together with a notice citing this section and describing the*  
26 *penalties for failure to comply with this section. Failure to provide*  
27 *the authorizing patient's certified medical records to the board*  
28 *within 15 days of receiving the request, authorization, and notice*  
29 *shall subject the health care facility to a civil penalty, payable to*  
30 *the board, of up to one thousand dollars (\$1,000) per day for each*  
31 *day that the documents have not been produced after the 15th day,*  
32 *up to ten thousand dollars (\$10,000), unless the health care facility*  
33 *is unable to provide the documents within this time period for good*  
34 *cause. This paragraph shall not require health care facilities to*  
35 *assist a board in obtaining the patient's authorization. The board*  
36 *shall pay the reasonable costs of copying the certified medical*  
37 *records, but shall not be required to make that payment prior to*  
38 *the production of the medical records.*

39 (b) (1) *A licensee who fails or refuses to comply with a court*  
40 *order, issued in the enforcement of a subpoena, mandating the*

1 release of records to the board, shall pay to the board a civil  
2 penalty of up to one thousand dollars (\$1,000) per day for each  
3 day that the documents have not been produced after the date by  
4 which the court order requires the documents to be produced, up  
5 to ten thousand dollars (\$10,000), unless it is determined that the  
6 order is unlawful or invalid. Any statute of limitations applicable  
7 to the filing of an accusation by the board shall be tolled during  
8 the period the licensee is out of compliance with the court order  
9 and during any related appeals.

10 (2) Any licensee who fails or refuses to comply with a court  
11 order, issued in the enforcement of a subpoena, mandating the  
12 release of records to a board is guilty of a misdemeanor punishable  
13 by a fine payable to the board not to exceed five thousand dollars  
14 (\$5,000). The fine shall be added to the licensee's renewal fee if  
15 it is not paid by the next succeeding renewal date. Any statute of  
16 limitations applicable to the filing of an accusation by the board  
17 shall be tolled during the period the licensee is out of compliance  
18 with the court order and during any related appeals.

19 (3) A health care facility that fails or refuses to comply with a  
20 court order, issued in the enforcement of a subpoena, mandating  
21 the release of patient records to the board, that is accompanied  
22 by a notice citing this section and describing the penalties for  
23 failure to comply with this section, shall pay to the board a civil  
24 penalty of up to one thousand dollars (\$1,000) per day for each  
25 day that the documents have not been produced, up to ten thousand  
26 dollars (\$10,000), after the date by which the court order requires  
27 the documents to be produced, unless it is determined that the  
28 order is unlawful or invalid. Any statute of limitations applicable  
29 to the filing of an accusation by the board against a licensee shall  
30 be tolled during the period the health care facility is out of  
31 compliance with the court order and during any related appeals.

32 (4) Any health care facility that fails or refuses to comply with  
33 a court order, issued in the enforcement of a subpoena, mandating  
34 the release of records to the board is guilty of a misdemeanor  
35 punishable by a fine payable to the board not to exceed five  
36 thousand dollars (\$5,000). Any statute of limitations applicable  
37 to the filing of an accusation by the board against a licensee shall  
38 be tolled during the period the health care facility is out of  
39 compliance with the court order and during any related appeals.

1     (c) Multiple acts by a licensee in violation of subdivision (b)  
2 shall be punishable by a fine not to exceed five thousand dollars  
3 (\$5,000) or by imprisonment in a county jail not exceeding six  
4 months, or by both that fine and imprisonment. Multiple acts by  
5 a health care facility in violation of subdivision (b) shall be  
6 punishable by a fine not to exceed five thousand dollars (\$5,000),  
7 shall be reported to the State Department of Public Health, and  
8 shall be considered as grounds for disciplinary action with respect  
9 to licensure, including suspension or revocation of the license or  
10 certificate.

11     (d) A failure or refusal of a licensee to comply with a court  
12 order, issued in the enforcement of a subpoena, mandating the  
13 release of records to the board constitutes unprofessional conduct  
14 and is grounds for suspension or revocation of his or her license.

15     (e) Imposition of the civil penalties authorized by this section  
16 shall be in accordance with the Administrative Procedure Act  
17 (Chapter 5 (commencing with Section 11500) of Division 3 of Title  
18 2 of the Government Code). Any civil penalties paid to, or received  
19 by, a board pursuant to this section shall be deposited into the  
20 fund administered by the board.

21     (f) For purposes of this section, “certified medical records”  
22 means a copy of the patient’s medical records authenticated by  
23 the licensee or health care facility, as appropriate, on a form  
24 prescribed by the licensee’s board.

25     (g) For purposes of this section, a “health care facility” means  
26 a clinic or health facility licensed or exempt from licensure  
27 pursuant to Division 2 (commencing with Section 1200) of the  
28 Health and Safety Code.

29     (h) If a board complies with Section 1684.1, 2225.5, or 2969,  
30 that board shall not be subject to the requirements of this section.

31     (i) This section shall not apply to a licensee who does not have  
32 access to, or control over, certified medical records.

33     SEC. 112. Section 3405.7 is added to the Business and  
34 Professions Code, to read:

35     3405.7. (a) Notwithstanding any other provision of law, any  
36 employer of a licensee shall report to the board the suspension or  
37 termination for cause, or any resignation in lieu of suspension or  
38 termination for cause, of any licensee in its employ within 15  
39 business days. The report shall not be made until after the  
40 conclusion of the review process specified in Section 52.3 of Title

2 of the California Code of Regulations and *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This required reporting shall not constitute a waiver of confidentiality of medical records. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800 and shall not be subject to discovery in civil cases.

(b) The information to be reported by the employer shall include the name and license number of the licensee involved, a description of the facts and circumstances of the suspension or termination for cause, any resignation in lieu of suspension or termination for cause, and any other relevant information deemed appropriate by the employer.

(c) The board shall be entitled to inspect and copy the following documents in the record for any suspension or termination for cause, or any resignation in lieu of suspension or termination for cause, resulting in action that is required to be reported pursuant to this section:

(1) Any statement for suspension or termination of the licensee.

(2) Any document or exhibits relevant to the suspension or termination.

(d) If, during the investigation by the board of the cause for the termination or suspension or resignation of the licensee, it is found that there has been a violation of existing state or federal law, the board shall report the violation to the appropriate agency.

(e) For purposes of this section, “suspension or termination for cause” or “resignation in lieu of suspension or termination for cause” is defined as resignation, suspension, or termination from employment for any of the following reasons:

(1) Use of controlled substances or alcohol to the extent that it impairs the licensee’s ability to safely practice.

(2) Unlawful sale of a controlled substance or other prescription items.

(3) Patient or client abuse, neglect, physical harm, or sexual contact with a patient or client.

(4) Gross negligence or incompetence.

(5) Theft from a patient or client, any other employee, or the employer.

(f) As used in this section, the following definitions apply:

(1) “Gross negligence” means a substantial departure from the standard of care, which, under similar circumstances, would have

1 *ordinarily been exercised by a competent licensee, and which has*  
2 *or could have resulted in harm to the consumer. An exercise of so*  
3 *slight a degree of care as to justify the belief that there was a*  
4 *conscious disregard or indifference for the health, safety, or*  
5 *welfare of the consumer shall be considered a substantial departure*  
6 *from the standard of care.*

7 (2) *“Incompetence” means the lack of possession of, and the*  
8 *failure to exercise that degree of learning, skill, care, and*  
9 *experience ordinarily possessed by, a responsible licensee.*

10 (3) *“Willful” means a knowing and intentional violation of a*  
11 *known legal duty.*

12 (g) (1) *Willful failure of an employer to make a report required*  
13 *by this section is punishable by an administrative fine not to exceed*  
14 *one hundred thousand dollars (\$100,000) per violation.*

15 (2) *Any failure of an employer, other than willful failure, to*  
16 *make a report required by this section is punishable by an*  
17 *administrative fine not to exceed fifty thousand dollars (\$50,000).*

18 (h) *The board shall investigate the circumstances underlying*  
19 *any report received pursuant to this section within 30 days to*  
20 *determine if an interim suspension order or temporary restraining*  
21 *order should be issued. The board shall otherwise provide timely*  
22 *disposition of the reports received pursuant to this section.*

23 (i) *The board shall send to the licentiate a copy of the report*  
24 *along with the reasons for the filing of the report and notice*  
25 *advising the licentiate of his or her right to submit additional*  
26 *statements or other information to the board.*

27 (j) *Pursuant to Section 43.8 of the Civil Code, no person shall*  
28 *incur any civil penalty as a result of making any report required*  
29 *by this article.*

30 (k) *No report is required under this section where a report of*  
31 *the action taken is already required under Section 805.*

32 SEC. 113. *Section 3405.8 is added to the Business and*  
33 *Professions Code, to read:*

34 3405.8. *Unless otherwise provided, on or after July 1, 2013,*  
35 *the board shall post on its Internet Web site the following*  
36 *information, including the name and license number, in its*  
37 *possession, custody, or control regarding every licensee for which*  
38 *the board licenses:*

39 (a) *With regard to the status of every license, whether or not*  
40 *the licensee or former licensee is in good standing, subject to a*

1 temporary restraining order; subject to an interim suspension  
2 order; subject to a restriction or cease practice ordered pursuant  
3 to Section 23 of the Penal Code, or subject to any of the  
4 enforcement actions described in Section 803.1.

5 (b) With regard to prior discipline of a licensee, whether or not  
6 the licensee or former licensee has been subject to discipline by  
7 the board or by the board of another state or jurisdiction, as  
8 described in Section 803.1.

9 (c) Any felony conviction of a licensee reported to the board.

10 (d) All current accusations filed by the Attorney General,  
11 including those accusations that are on appeal. For purposes of  
12 this paragraph, “current accusation” means an accusation that  
13 has not been dismissed, withdrawn, or settled, and has not been  
14 finally decided upon by an administrative law judge and the board  
15 unless an appeal of that decision is pending.

16 (e) Any malpractice judgment or arbitration award imposed  
17 against a licensee and reported to the healing arts board.

18 (f) Any hospital disciplinary action imposed against a licensee  
19 that resulted in the termination or revocation of a licensee’s  
20 hospital staff privileges for a medical disciplinary cause or reason  
21 pursuant to Section 3405.6 or 805.

22 (g) Any misdemeanor conviction of a licensee that results in a  
23 disciplinary action or an accusation that is not subsequently  
24 withdrawn or dismissed.

25 (h) Appropriate disclaimers and explanatory statements to  
26 accompany the above information, including an explanation of  
27 what types of information are not disclosed. These disclaimers  
28 and statements shall be developed by the board and shall be  
29 adopted by regulation.

30 (i) The information provided on the Internet shall be in  
31 accordance with the California Public Records Act (Chapter 3.5  
32 (commencing with Section 6250) of Division 7 of Title 1 of the  
33 Government Code) and the Information Practices Act of 1977  
34 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4  
35 of Division 3 of the Civil Code) and shall comply with the  
36 Department of Consumer Affairs Guidelines for Access to Public  
37 Records.

38 (j) Information provided on the Internet may not include  
39 personal information, unless otherwise provided pursuant to this  
40 chapter, including the home telephone number, date of birth, or

1 *social security number. The information may not include the*  
2 *licensee's address, but may include the city and county of the*  
3 *licensee's address of record.*

4 *SEC. 114. Section 3405.9 is added to the Business and*  
5 *Professions Code, to read:*

6 *3405.9. (a) Unless otherwise provided, if a licensee possesses*  
7 *a license or is otherwise authorized to practice in any state other*  
8 *than California or by any agency of the federal government and*  
9 *that license or authority is suspended or revoked outright, the*  
10 *California license of the licensee shall be suspended automatically*  
11 *for the duration of the suspension or revocation, unless terminated*  
12 *or rescinded as provided in subdivision (c). The healing arts board*  
13 *shall notify the licensee of the license suspension and of his or her*  
14 *right to have the issue of penalty heard as provided in this section.*

15 *(b) Upon its own motion or for good cause shown, the board*  
16 *may decline to impose or may set aside the suspension when it*  
17 *appears to be in the interest of justice to do so, with due regard*  
18 *to maintaining the integrity of, and confidence in, the specific*  
19 *healing art.*

20 *(c) The issue of penalty shall be heard by an administrative law*  
21 *judge sitting alone or with a panel of the board, in the discretion*  
22 *of the board. A licensee may request a hearing on the penalty and*  
23 *that hearing shall be held within 90 days from the date of the*  
24 *request. If the order suspending or revoking the license or authority*  
25 *to practice is overturned on appeal, any discipline ordered*  
26 *pursuant to this section shall automatically cease. Upon a showing*  
27 *to the administrative law judge or panel by the licensee that the*  
28 *out-of-state action is not a basis for discipline in California, the*  
29 *suspension shall be rescinded. If an accusation for permanent*  
30 *discipline is not filed within 90 days of the suspension imposed*  
31 *pursuant to this section, the suspension shall automatically*  
32 *terminate.*

33 *(d) The record of the proceedings that resulted in the suspension*  
34 *or revocation of the licensee's out-of-state license or authority to*  
35 *practice, including a transcript of the testimony therein, may be*  
36 *received in evidence.*

37 *(e) This section shall not apply to a licensee who maintains his*  
38 *or her primary practice in California, as evidenced by having*  
39 *maintained a practice in this state for not less than one year*  
40 *immediately preceding the date of suspension or revocation.*

1 *Nothing in this section shall preclude a licensee's license from*  
2 *being suspended pursuant to any other provision of law.*

3 *(f) This section shall not apply to a licensee whose license has*  
4 *been surrendered, whose only discipline is a medical staff*  
5 *disciplinary action at a federal hospital and not for medical*  
6 *disciplinary cause or reason as that term is defined in Section 805,*  
7 *or whose revocation or suspension has been stayed, even if the*  
8 *licensee remains subject to terms of probation or other discipline.*

9 *(g) This section shall not apply to a suspension or revocation*  
10 *imposed by a state that is based solely on the prior discipline of*  
11 *the licensee by another state.*

12 *(h) The other provisions of this article setting forth a procedure*  
13 *for the suspension or revocation of a licensee's license or*  
14 *certificate shall not apply to summary suspensions issued pursuant*  
15 *to this section. If a summary suspension has been issued pursuant*  
16 *to this section, the licensee may request that the hearing on the*  
17 *penalty conducted pursuant to subdivision (c) be held at the same*  
18 *time as a hearing on the accusation.*

19 *(i) A board that complies with Section 2310 shall not be subject*  
20 *to the requirements of this section.*

21 *SEC. 115. Section 3531.1 is added to the Business and*  
22 *Professions Code, to read:*

23 *3531.1. (a) The committee may delegate to its executive officer*  
24 *the authority to adopt a proposed default decision where an*  
25 *administrative action to revoke a license has been filed and the*  
26 *licensee has failed to file a notice of defense or to appear at the*  
27 *hearing and a proposed default decision revoking the license has*  
28 *been issued.*

29 *(b) The committee may delegate to its executive officer the*  
30 *authority to adopt a proposed settlement agreement where an*  
31 *administrative action to revoke a license has been filed by the*  
32 *committee and the licensee has agreed to the revocation or*  
33 *surrender of his or her license.*

34 *(c) The executive officer shall, at scheduled committee meetings,*  
35 *report to the committee the number of proposed default decisions*  
36 *or proposed settlement agreements adopted pursuant to this*  
37 *section.*

38 *SEC. 116. Section 3531.2 is added to the Business and*  
39 *Professions Code, to read:*



1     3531.2. (a) Notwithstanding Section 11415.60 of the  
2     Government Code, the committee may enter into a settlement with  
3     a licensee or applicant in lieu of the issuance of an accusation or  
4     statement of issues against that licensee or applicant, as applicable.

5     (b) The settlement shall include language identifying the factual  
6     basis for the action being taken and a list of the statutes or  
7     regulations violated.

8     (c) A person who enters a settlement pursuant to this section is  
9     not precluded from filing a petition, in the timeframe permitted by  
10    law, to modify the terms of the settlement or petition for early  
11    termination of probation, if probation is part of the settlement.

12    (d) Any settlement against a licensee executed pursuant to this  
13    section shall be considered discipline and a public record and  
14    shall be posted on the applicable committee's Internet Web site.  
15    Any settlement against an applicant executed pursuant to this  
16    section shall be considered a public record and shall be posted  
17    on the applicable committee's Internet Web site.

18    (e) The executive officer shall, at scheduled committee meetings,  
19    report to the committee the number of proposed settlement  
20    agreements adopted pursuant to this section.

21    SEC. 117. Section 3531.3 is added to the Business and  
22    Professions Code, to read:

23    3531.3. (a) The license of a licensee shall be suspended  
24    automatically during any time that the licensee is incarcerated  
25    after conviction of a felony, regardless of whether the conviction  
26    has been appealed. The committee shall, immediately upon receipt  
27    of the certified copy of the record of conviction, determine whether  
28    the license of the licensee has been automatically suspended by  
29    virtue of his or her incarceration, and if so, the duration of that  
30    suspension. The committee shall notify the licensee in writing of  
31    the license suspension and of his or her right to elect to have the  
32    issue of penalty heard as provided in subdivision (d).

33    (b) Upon receipt of the certified copy of the record of conviction,  
34    if after a hearing before an administrative law judge from the  
35    Office of Administrative Hearings it is determined that the felony  
36    for which the licensee was convicted was substantially related to  
37    the qualifications, functions, or duties of a licensee, the committee  
38    shall suspend the license until the time for appeal has elapsed, if  
39    no appeal has been taken, or until the judgment of conviction has

1 *been affirmed on appeal or has otherwise become final, and until*  
2 *further order of the committee.*

3 *(c) Notwithstanding subdivision (b), a conviction of a charge*  
4 *of violating any federal statute or regulation or any statute or*  
5 *regulation of this state, regulating dangerous drugs or controlled*  
6 *substances, or a conviction of Section 187, 261, 262, or 288 of the*  
7 *Penal Code, shall be conclusively presumed to be substantially*  
8 *related to the qualifications, functions, or duties of a licensee and*  
9 *no hearing shall be held on this issue. However, upon its own*  
10 *motion or for good cause shown, the committee may decline to*  
11 *impose or may set aside the suspension when it appears to be in*  
12 *the interest of justice to do so, with due regard to maintaining the*  
13 *integrity of, and confidence in, the practice regulated by the*  
14 *committee.*

15 *(d) (1) Discipline may be ordered against a licensee in*  
16 *accordance with the statutes and regulations of the committee*  
17 *when the time for appeal has elapsed, the judgment of conviction*  
18 *has been affirmed on appeal, or an order granting probation is*  
19 *made suspending the imposition of sentence, irrespective of a*  
20 *subsequent order under Section 1203.4 of the Penal Code allowing*  
21 *the person to withdraw his or her plea of guilty and to enter a plea*  
22 *of not guilty, setting aside the verdict of guilty, or dismissing the*  
23 *accusation, complaint, information, or indictment.*

24 *(2) The issue of penalty shall be heard by an administrative law*  
25 *judge from the Office of Administrative Hearings. The hearing*  
26 *shall not be had until the judgment of conviction has become final*  
27 *or, irrespective of a subsequent order under Section 1203.4 of the*  
28 *Penal Code, an order granting probation has been made*  
29 *suspending the imposition of sentence; except that a licensee may,*  
30 *at his or her option, elect to have the issue of penalty decided*  
31 *before those time periods have elapsed. Where the licensee so*  
32 *elects, the issue of penalty shall be heard in the manner described*  
33 *in subdivision (b) at the hearing to determine whether the*  
34 *conviction was substantially related to the qualifications, functions,*  
35 *or duties of a licensee. If the conviction of a licensee who has made*  
36 *this election is overturned on appeal, any discipline ordered*  
37 *pursuant to this section shall automatically cease. Nothing in this*  
38 *subdivision shall prohibit the committee from pursuing disciplinary*  
39 *action based on any cause other than the overturned conviction.*

1     (e) *The record of the proceedings resulting in a conviction,*  
2     *including a transcript of the testimony in those proceedings, may*  
3     *be received in evidence.*

4     (f) *Any other provision of law setting forth a procedure for the*  
5     *suspension or revocation of a license issued by the committee shall*  
6     *not apply to proceedings conducted pursuant to this section.*

7     SEC. 118. *Section 3531.4 is added to the Business and*  
8     *Professions Code, to read:*

9     3531.4. (a) *Except as otherwise provided, any proposed*  
10    *decision or decision issued in accordance with the procedures set*  
11    *forth in Chapter 5 (commencing with Section 11500) of Part 1 of*  
12    *Division 3 of Title 2 of the Government Code, that contains any*  
13    *finding of fact that the licensee engaged in any act of sexual contact*  
14    *with a patient, as defined in subdivision (c) of Section 729, or any*  
15    *finding that the licensee has committed a sex offense, shall contain*  
16    *an order revoking the license. The proposed decision shall not*  
17    *contain any order staying the revocation of the licensee.*

18    (b) *As used in this section, the term sex offense shall mean any*  
19    *of the following:*

20    (1) *Any offense for which registration is required by Section*  
21    *290 of the Penal Code or a finding that a person committed such*  
22    *an act.*

23    (2) *Any offense described in Section 243.4(a)–(d), 261.5, 313.1,*  
24    *or 647(a) or (d) of the Penal Code or a finding that a person*  
25    *committed such an act.*

26    (3) *Any attempt to commit any of the offenses specified in this*  
27    *section.*

28    (4) *Any offense committed or attempted in any other state or*  
29    *against the laws of the United States which, if committed or*  
30    *attempted in this state, would have been punishable as one or more*  
31    *of the offenses specified in this section.*

32    SEC. 119. *Section 3531.5 is added to the Business and*  
33    *Professions Code, to read:*

34    3531.5. (a) *Except as otherwise provided, with regard to an*  
35    *individual who is required to register as a sex offender pursuant*  
36    *to Section 290 of the Penal Code, or the equivalent in another*  
37    *state or territory, under military law, or under federal law, the*  
38    *committee shall be subject to the following requirements:*

39    (1) *The committee shall deny an application by the individual*  
40    *for licensure in accordance with the procedures set forth in*

1 Chapter 5 (commencing with Section 11500) of Part 1 of Division  
2 3 of Title 2 of the Government Code.

3 (2) If the individual is licensed under this chapter, the committee  
4 shall promptly revoke the license of the individual in accordance  
5 with the procedures set forth in Chapter 5 (commencing with  
6 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
7 Code. The committee shall not stay the revocation and place the  
8 license on probation.

9 (3) The committee shall not reinstate or reissue the individual's  
10 license. The committee shall not issue a stay of license denial nor  
11 place the license on probation.

12 (b) This section shall not apply to any of the following:

13 (1) An individual who has been relieved under Section 290.5 of  
14 the Penal Code of his or her duty to register as a sex offender, or  
15 whose duty to register has otherwise been formally terminated  
16 under California law or the law of the jurisdiction that requires  
17 his or her registration as a sex offender.

18 (2) An individual who is required to register as a sex offender  
19 pursuant to Section 290 of the Penal Code solely because of a  
20 misdemeanor conviction under Section 314 of the Penal Code.  
21 However, nothing in this paragraph shall prohibit the committee  
22 from exercising its discretion to discipline a licensee under any  
23 other provision of state law based upon the licensee's conviction  
24 under Section 314 of the Penal Code.

25 (3) Any administrative adjudication proceeding under Chapter  
26 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
27 2 of the Government Code that is fully adjudicated prior to January  
28 1, 2008. A petition for reinstatement of a revoked or surrendered  
29 license shall be considered a new proceeding for purposes of this  
30 paragraph, and the prohibition against reinstating a license to an  
31 individual who is required to register as a sex offender shall be  
32 applicable.

33 SEC. 120. Section 3531.6 is added to the Business and  
34 Professions Code, to read:

35 3531.6. (a) Notwithstanding any other provision of law making  
36 a communication between a licensee and his or her patients a  
37 privileged communication, those provisions shall not apply to  
38 investigations or proceedings conducted by the committee.  
39 Members of the committee, deputies, employees, agents, the office  
40 of the Attorney General, and representatives of the committee shall

1 *keep in confidence during the course of investigations the names*  
2 *of any patients whose records are reviewed and may not disclose*  
3 *or reveal those names, except as is necessary during the course*  
4 *of an investigation, unless and until proceedings are instituted.*  
5 *The authority under this subdivision to examine records of patients*  
6 *in the office of a licensee is limited to records of patients who have*  
7 *complained to the committee about that licensee.*

8 *(b) Notwithstanding any other provision of law, the Attorney*  
9 *General and his or her investigative agents, and the committee*  
10 *and its investigators and representatives may inquire into any*  
11 *alleged violation of the laws under the jurisdiction of the committee*  
12 *or any other federal or state law, regulation, or rule relevant to*  
13 *the practice regulated by the committee, whichever is applicable,*  
14 *and may inspect documents relevant to those investigations in*  
15 *accordance with the following procedures:*

16 *(1) Any document relevant to an investigation may be inspected,*  
17 *and copies may be obtained, where a patient provides written*  
18 *authorization.*

19 *(2) Any document relevant to the business operations of a*  
20 *licensee, and not involving medical records attributable to*  
21 *identifiable patients, may be inspected and copied where relevant*  
22 *to an investigation of a licensee.*

23 *(c) In all cases where documents are inspected or copies of*  
24 *those documents are received, their acquisition or review shall be*  
25 *arranged so as not to unnecessarily disrupt the medical and*  
26 *business operations of the licensee or of the facility where the*  
27 *records are kept or used.*

28 *(d) Where certified documents are lawfully requested from*  
29 *licensees in accordance with this section by the Attorney General*  
30 *or his or her agents or deputies, or investigators of the committee,*  
31 *the documents shall be provided within 10 business days of receipt*  
32 *of the request, unless the licensee is unable to provide the certified*  
33 *documents within this time period for good cause, including, but*  
34 *not limited to, physical inability to access the records in the time*  
35 *allowed due to illness or travel. Failure to produce requested*  
36 *certified documents or copies thereof, after being informed of the*  
37 *required deadline, shall constitute unprofessional conduct. The*  
38 *committee may use its authority to cite and fine a licensee for any*  
39 *violation of this section. This remedy is in addition to any other*

1 authority of the committee to sanction a licensee for a delay in  
2 producing requested records.

3 (e) Searches conducted of the office or medical facility of any  
4 licensee shall not interfere with the recordkeeping format or  
5 preservation needs of any licensee necessary for the lawful care  
6 of patients.

7 (f) The licensee shall cooperate with the committee in furnishing  
8 information or assistance as may be required, including, but not  
9 limited to, participation in an interview with investigators or  
10 representatives of the committee.

11 (g) This section shall not apply to a licensee who does not have  
12 access to, and control over, certified medical records or other  
13 types of documents that belong to or are controlled by a health  
14 facility or clinic.

15 SEC. 121. Section 3531.7 is added to the Business and  
16 Professions Code, to read:

17 3531.7. (a) (1) Notwithstanding any other provision of law,  
18 a licensee who fails or refuses to comply with a request for the  
19 certified medical records of a patient that is accompanied by that  
20 patient's written authorization for release of records to the  
21 committee together with a notice citing this section and describing  
22 the penalties for failure to comply with this section shall be  
23 required to pay to the committee a civil penalty of up to one  
24 thousand dollars (\$1,000) per day for each day that the documents  
25 have not been produced after the 15th day, up to ten thousand  
26 dollars (\$10,000), unless the licensee is unable to provide the  
27 documents within this time period for good cause.

28 (2) A health care facility shall comply with a request for the  
29 certified medical records of a patient that is accompanied by that  
30 patient's written authorization for release of records to the  
31 committee together with a notice citing this section and describing  
32 the penalties for failure to comply with this section. Failure to  
33 provide the authorizing patient's certified medical records to the  
34 committee within 15 days of receiving the request, authorization,  
35 and notice shall subject the health care facility to a civil penalty,  
36 payable to the committee, of up to one thousand dollars (\$1,000)  
37 per day for each day that the documents have not been produced  
38 after the 15th day, up to ten thousand dollars (\$10,000), unless  
39 the health care facility is unable to provide the documents within  
40 this time period for good cause. This paragraph shall not require

1 health care facilities to assist the committee in obtaining the  
2 patient's authorization. The committee shall pay the reasonable  
3 costs of copying the certified medical records, but shall not be  
4 required to make that payment prior to the production of the  
5 medical records.

6 (b) (1) A licensee who fails or refuses to comply with a court  
7 order, issued in the enforcement of a subpoena, mandating the  
8 release of records to the committee, shall pay to the committee a  
9 civil penalty of up to one thousand dollars (\$1,000) per day for  
10 each day that the documents have not been produced after the date  
11 by which the court order requires the documents to be produced,  
12 up to ten thousand dollars (\$10,000), unless it is determined that  
13 the order is unlawful or invalid. Any statute of limitations  
14 applicable to the filing of an accusation by the committee shall be  
15 tolled during the period the licensee is out of compliance with the  
16 court order and during any related appeals.

17 (2) Any licensee who fails or refuses to comply with a court  
18 order, issued in the enforcement of a subpoena, mandating the  
19 release of records to the committee is guilty of a misdemeanor  
20 punishable by a fine payable to the committee not to exceed five  
21 thousand dollars (\$5,000). The fine shall be added to the licensee's  
22 renewal fee if it is not paid by the next succeeding renewal date.  
23 Any statute of limitations applicable to the filing of an accusation  
24 by the committee shall be tolled during the period the licensee is  
25 out of compliance with the court order and during any related  
26 appeals.

27 (3) A health care facility that fails or refuses to comply with a  
28 court order, issued in the enforcement of a subpoena, mandating  
29 the release of patient records to the committee, that is accompanied  
30 by a notice citing this section and describing the penalties for  
31 failure to comply with this section, shall pay to the committee a  
32 civil penalty of up to one thousand dollars (\$1,000) per day for  
33 each day that the documents have not been produced, up to ten  
34 thousand dollars (\$10,000), after the date by which the court order  
35 requires the documents to be produced, unless it is determined  
36 that the order is unlawful or invalid. Any statute of limitations  
37 applicable to the filing of an accusation by the committee against  
38 a licensee shall be tolled during the period the health care facility  
39 is out of compliance with the court order and during any related  
40 appeals.

1     (4) Any health care facility that fails or refuses to comply with  
2     a court order, issued in the enforcement of a subpoena, mandating  
3     the release of records to the committee is guilty of a misdemeanor  
4     punishable by a fine payable to the committee not to exceed five  
5     thousand dollars (\$5,000). Any statute of limitations applicable  
6     to the filing of an accusation by the committee against a licensee  
7     shall be tolled during the period the health care facility is out of  
8     compliance with the court order and during any related appeals.

9     (c) Multiple acts by a licensee in violation of subdivision (b)  
10    shall be punishable by a fine not to exceed five thousand dollars  
11    (\$5,000) or by imprisonment in a county jail not exceeding six  
12    months, or by both that fine and imprisonment. Multiple acts by  
13    a health care facility in violation of subdivision (b) shall be  
14    punishable by a fine not to exceed five thousand dollars (\$5,000),  
15    shall be reported to the State Department of Public Health, and  
16    shall be considered as grounds for disciplinary action with respect  
17    to licensure, including suspension or revocation of the license or  
18    certificate.

19    (d) A failure or refusal of a licensee to comply with a court  
20    order, issued in the enforcement of a subpoena, mandating the  
21    release of records to the committee constitutes unprofessional  
22    conduct and is grounds for suspension or revocation of his or her  
23    license.

24    (e) Imposition of the civil penalties authorized by this section  
25    shall be in accordance with the Administrative Procedure Act  
26    (Chapter 5 (commencing with Section 11500) of Division 3 of Title  
27    2 of the Government Code). Any civil penalties paid to, or received  
28    by, the committee pursuant to this section shall be deposited into  
29    the fund administered by the committee.

30    (f) For purposes of this section, “certified medical records”  
31    means a copy of the patient’s medical records authenticated by  
32    the licensee or health care facility, as appropriate, on a form  
33    prescribed by the committee.

34    (g) For purposes of this section, a “health care facility” means  
35    a clinic or health facility licensed or exempt from licensure  
36    pursuant to Division 2 (commencing with Section 1200) of the  
37    Health and Safety Code.

38    (h) If the committee complies with Section 1684.1, 2225.5, or  
39    2969, the committee shall not be subject to the requirements of  
40    this section.



1     (i) *This section shall not apply to a licensee who does not have*  
2 *access to, or control over, certified medical records or other types*  
3 *of documents that belong to or are controlled by a health facility*  
4 *or clinic.*

5     SEC. 122. *Section 3531.8 is added to the Business and*  
6 *Professions Code, to read:*

7     3531.8. (a) *Notwithstanding any other provision of law, any*  
8 *employer of a licensee shall report to the committee the suspension*  
9 *or termination for cause, or any resignation in lieu of suspension*  
10 *or termination for cause, of any licensee in its employ within 15*  
11 *business days. The report shall not be made until after the*  
12 *conclusion of the review process specified in Section 52.3 of Title*  
13 *2 of the California Code of Regulations and Skelly v. State*  
14 *Personnel Bd. (1975) 15 Cal.3d 194, for public employees. This*  
15 *required reporting shall not constitute a waiver of confidentiality*  
16 *of medical records. The information reported or disclosed shall*  
17 *be kept confidential except as provided in subdivision (c) of Section*  
18 *800 and shall not be subject to discovery in civil cases.*

19     (b) *The information to be reported by the employer shall include*  
20 *the name and license number of the licensee involved, a*  
21 *description of the facts and circumstances of the suspension or*  
22 *termination for cause, any resignation in lieu of suspension or*  
23 *termination for cause, and any other relevant information deemed*  
24 *appropriate by the employer.*

25     (c) *The committee shall be entitled to inspect and copy the*  
26 *following documents in the record for any suspension or*  
27 *termination for cause, or any resignation in lieu of suspension or*  
28 *termination for cause, resulting in action that is required to be*  
29 *reported pursuant to this section:*

30     (1) *Any statement for suspension or termination of the licensee.*

31     (2) *Any document or exhibits relevant to the suspension or*  
32 *termination.*

33     (d) *If, during the investigation by the committee of the cause*  
34 *for the termination or suspension or resignation of the licensee,*  
35 *it is found that there has been a violation of existing state or federal*  
36 *law, the committee shall report the violation to the appropriate*  
37 *agency.*

38     (e) *For purposes of this section, “suspension or termination for*  
39 *cause” or “resignation in lieu of suspension or termination for*

1 *cause” is defined as resignation, suspension, or termination from*  
2 *employment for any of the following reasons:*

3 *(1) Use of controlled substances or alcohol to the extent that it*  
4 *impairs the licensee’s ability to safely practice.*

5 *(2) Unlawful sale of a controlled substance or other prescription*  
6 *items.*

7 *(3) Patient or client abuse, neglect, physical harm, or sexual*  
8 *contact with a patient or client.*

9 *(4) Gross negligence or incompetence.*

10 *(5) Theft from a patient or client, any other employee, or the*  
11 *employer.*

12 *(f) As used in this section, the following definitions apply:*

13 *(1) “Gross negligence” means a substantial departure from the*  
14 *standard of care, which, under similar circumstances, would have*  
15 *ordinarily been exercised by a competent licensee, and which has*  
16 *or could have resulted in harm to the consumer. An exercise of so*  
17 *slight a degree of care as to justify the belief that there was a*  
18 *conscious disregard or indifference for the health, safety, or*  
19 *welfare of the consumer shall be considered a substantial departure*  
20 *from the standard of care.*

21 *(2) “Incompetence” means the lack of possession of, and the*  
22 *failure to exercise that degree of learning, skill, care, and*  
23 *experience ordinarily possessed by, a responsible licensee.*

24 *(3) “Willful” means a knowing and intentional violation of a*  
25 *known legal duty.*

26 *(g) (1) Willful failure of an employer to make a report required*  
27 *by this section is punishable by an administrative fine not to exceed*  
28 *one hundred thousand dollars (\$100,000) per violation.*

29 *(2) Any failure of an employer, other than willful failure, to*  
30 *make a report required by this section is punishable by an*  
31 *administrative fine not to exceed fifty thousand dollars (\$50,000).*

32 *(h) The committee shall investigate the circumstances underlying*  
33 *any report received pursuant to this section within 30 days to*  
34 *determine if an interim suspension order or temporary restraining*  
35 *order should be issued. The committee shall otherwise provide*  
36 *timely disposition of the reports received pursuant to this section.*

37 *(i) The committee shall send to the licentiate a copy of the report*  
38 *along with the reasons for the filing of the report and notice*  
39 *advising the licentiate of his or her right to submit additional*  
40 *statements or other information to the committee.*

1     (j) Pursuant to Section 43.8 of the Civil Code, no person shall  
2 incur any civil penalty as a result of making any report required  
3 by this article.

4     (k) No report is required under this section where a report of  
5 the action taken is already required under Section 805.

6     SEC. 123. Section 3531.9 is added to the Business and  
7 Professions Code, to read:

8     3531.9. Unless otherwise provided, on or after July 1, 2013,  
9 the committee shall post on its Internet Web site the following  
10 information, including the name and license number, in its  
11 possession, custody, or control regarding every licensee for which  
12 the committee licenses:

13     (a) With regard to the status of every license, whether or not  
14 the licensee or former licensee is in good standing, subject to a  
15 temporary restraining order, subject to an interim suspension  
16 order, subject to a restriction or cease practice ordered pursuant  
17 to Section 23 of the Penal Code, or subject to any of the  
18 enforcement actions described in Section 803.1.

19     (b) With regard to prior discipline of a licensee, whether or not  
20 the licensee or former licensee has been subject to discipline by  
21 the board or by the committee of another state or jurisdiction, as  
22 described in Section 803.1.

23     (c) Any felony conviction of a licensee reported to the committee.

24     (d) All current accusations filed by the Attorney General,  
25 including those accusations that are on appeal. For purposes of  
26 this paragraph, “current accusation” means an accusation that  
27 has not been dismissed, withdrawn, or settled, and has not been  
28 finally decided upon by an administrative law judge and the  
29 committee unless an appeal of that decision is pending.

30     (e) Any malpractice judgment or arbitration award imposed  
31 against a licensee and reported to the committee.

32     (f) Any hospital disciplinary action imposed against a licensee  
33 that resulted in the termination or revocation of a licensee’s  
34 hospital staff privileges for a medical disciplinary cause or reason  
35 pursuant to Section 3531.7 or 805.

36     (g) Any misdemeanor conviction of a licensee that results in a  
37 disciplinary action or an accusation that is not subsequently  
38 withdrawn or dismissed.

39     (h) Appropriate disclaimers and explanatory statements to  
40 accompany the above information, including an explanation of

1 *what types of information are not disclosed. These disclaimers*  
2 *and statements shall be developed by the committee and shall be*  
3 *adopted by regulation.*

4 *(i) The information provided on the Internet shall be in*  
5 *accordance with the California Public Records Act (Chapter 3.5*  
6 *(commencing with Section 6250) of Division 7 of Title 1 of the*  
7 *Government Code) and the Information Practices Act of 1977*  
8 *(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4*  
9 *of Division 3 of the Civil Code) and shall comply with the*  
10 *Department of Consumer Affairs Guidelines for Access to Public*  
11 *Records.*

12 *(j) Information provided on the Internet may not include*  
13 *personal information, unless otherwise provided pursuant to this*  
14 *chapter, including the home telephone number, date of birth, or*  
15 *social security number. The information may not include the*  
16 *licensee's address, but may include the city and county of the*  
17 *licensee's address of record.*

18 *SEC. 124. Section 3531.10 is added to the Business and*  
19 *Professions Code, to read:*

20 *3531.10. (a) Unless otherwise provided, if a licensee possesses*  
21 *a license or is otherwise authorized to practice in any state other*  
22 *than California or by any agency of the federal government and*  
23 *that license or authority is suspended or revoked outright, the*  
24 *California license of the licensee shall be suspended automatically*  
25 *for the duration of the suspension or revocation, unless terminated*  
26 *or rescinded as provided in subdivision (c). The committee shall*  
27 *notify the licensee of the license suspension and of his or her right*  
28 *to have the issue of penalty heard as provided in this section.*

29 *(b) Upon its own motion or for good cause shown, the committee*  
30 *may decline to impose or may set aside the suspension when it*  
31 *appears to be in the interest of justice to do so, with due regard*  
32 *to maintaining the integrity of, and confidence in, the specific*  
33 *healing art.*

34 *(c) The issue of penalty shall be heard by an administrative law*  
35 *judge sitting alone or with a panel of the committee, in the*  
36 *discretion of the committee. A licensee may request a hearing on*  
37 *the penalty and that hearing shall be held within 90 days from the*  
38 *date of the request. If the order suspending or revoking the license*  
39 *or authority to practice is overturned on appeal, any discipline*  
40 *ordered pursuant to this section shall automatically cease. Upon*

1 a showing to the administrative law judge or panel by the licensee  
2 that the out-of-state action is not a basis for discipline in  
3 California, the suspension shall be rescinded. If an accusation for  
4 permanent discipline is not filed within 90 days of the suspension  
5 imposed pursuant to this section, the suspension shall automatically  
6 terminate.

7 (d) The record of the proceedings that resulted in the suspension  
8 or revocation of the licensee's out-of-state license or authority to  
9 practice, including a transcript of the testimony therein, may be  
10 received in evidence.

11 (e) This section shall not apply to a licensee who maintains his  
12 or her primary practice in California, as evidenced by having  
13 maintained a practice in this state for not less than one year  
14 immediately preceding the date of suspension or revocation.  
15 Nothing in this section shall preclude a licensee's license from  
16 being suspended pursuant to any other provision of law.

17 (f) This section shall not apply to a licensee whose license has  
18 been surrendered, whose only discipline is a medical staff  
19 disciplinary action at a federal hospital and not for medical  
20 disciplinary cause or reason as that term is defined in Section 805,  
21 or whose revocation or suspension has been stayed, even if the  
22 licensee remains subject to terms of probation or other discipline.

23 (g) This section shall not apply to a suspension or revocation  
24 imposed by a state that is based solely on the prior discipline of  
25 the licensee by another state.

26 (h) The other provisions of this article setting forth a procedure  
27 for the suspension or revocation of a licensee's license or  
28 certificate shall not apply to summary suspensions issued pursuant  
29 to this section. If a summary suspension has been issued pursuant  
30 to this section, the licensee may request that the hearing on the  
31 penalty conducted pursuant to subdivision (c) be held at the same  
32 time as a hearing on the accusation.

33 (i) If the committee complies with Section 2310 it shall not be  
34 subject to the requirements of this section.

35 SEC. 125. Section 3665 is added to the Business and  
36 Professions Code, to read:

37 3665. (a) The committee may delegate to its executive officer  
38 the authority to adopt a proposed default decision where an  
39 administrative action to revoke a license has been filed and the  
40 licensee has failed to file a notice of defense or to appear at the

1 *hearing and a proposed default decision revoking the license has*  
2 *been issued.*

3 *(b) The committee may delegate to its executive officer the*  
4 *authority to adopt a proposed settlement agreement where an*  
5 *administrative action to revoke a license has been filed by the*  
6 *committee and the licensee has agreed to the revocation or*  
7 *surrender of his or her license.*

8 *(c) The executive officer shall, at scheduled committee meetings,*  
9 *report to the committee the number of proposed default decisions*  
10 *or proposed settlement agreements adopted pursuant to this*  
11 *section.*

12 *SEC. 126. Section 3665.1 is added to the Business and*  
13 *Professions Code, to read:*

14 *3665.1. (a) Notwithstanding Section 11415.60 of the*  
15 *Government Code, the committee may enter into a settlement with*  
16 *a licensee or applicant in lieu of the issuance of an accusation or*  
17 *statement of issues against that licensee or applicant, as applicable.*

18 *(b) The settlement shall include language identifying the factual*  
19 *basis for the action being taken and a list of the statutes or*  
20 *regulations violated.*

21 *(c) A person who enters a settlement pursuant to this section is*  
22 *not precluded from filing a petition, in the timeframe permitted by*  
23 *law, to modify the terms of the settlement or petition for early*  
24 *termination of probation, if probation is part of the settlement.*

25 *(d) Any settlement against a licensee executed pursuant to this*  
26 *section shall be considered discipline and a public record and*  
27 *shall be posted on the applicable committee's Internet Web site.*  
28 *Any settlement against an applicant executed pursuant to this*  
29 *section shall be considered a public record and shall be posted*  
30 *on the applicable committee's Internet Web site.*

31 *(e) The executive officer shall, at scheduled committee meetings,*  
32 *report to the committee the number of proposed settlement*  
33 *agreements adopted pursuant to this section.*

34 *SEC. 127. Section 3665.2 is added to the Business and*  
35 *Professions Code, to read:*

36 *3665.2. (a) The license of a licensee shall be suspended*  
37 *automatically during any time that the licensee is incarcerated*  
38 *after conviction of a felony, regardless of whether the conviction*  
39 *has been appealed. The committee shall, immediately upon receipt*  
40 *of the certified copy of the record of conviction, determine whether*

1 *the license of the licensee has been automatically suspended by*  
2 *virtue of his or her incarceration, and if so, the duration of that*  
3 *suspension. The committee shall notify the licensee in writing of*  
4 *the license suspension and of his or her right to elect to have the*  
5 *issue of penalty heard as provided in subdivision (d).*

6 *(b) Upon receipt of the certified copy of the record of conviction,*  
7 *if after a hearing before an administrative law judge from the*  
8 *Office of Administrative Hearings it is determined that the felony*  
9 *for which the licensee was convicted was substantially related to*  
10 *the qualifications, functions, or duties of a licensee, the committee*  
11 *shall suspend the license until the time for appeal has elapsed, if*  
12 *no appeal has been taken, or until the judgment of conviction has*  
13 *been affirmed on appeal or has otherwise become final, and until*  
14 *further order of the committee.*

15 *(c) Notwithstanding subdivision (b), a conviction of a charge*  
16 *of violating any federal statute or regulation or any statute or*  
17 *regulation of this state, regulating dangerous drugs or controlled*  
18 *substances, or a conviction of Section 187, 261, 262, or 288 of the*  
19 *Penal Code, shall be conclusively presumed to be substantially*  
20 *related to the qualifications, functions, or duties of a licensee and*  
21 *no hearing shall be held on this issue. However, upon its own*  
22 *motion or for good cause shown, the committee may decline to*  
23 *impose or may set aside the suspension when it appears to be in*  
24 *the interest of justice to do so, with due regard to maintaining the*  
25 *integrity of, and confidence in, the practice regulated by the*  
26 *committee.*

27 *(d) (1) Discipline may be ordered against a licensee in*  
28 *accordance with the statutes and regulations of the committee*  
29 *when the time for appeal has elapsed, the judgment of conviction*  
30 *has been affirmed on appeal, or an order granting probation is*  
31 *made suspending the imposition of sentence, irrespective of a*  
32 *subsequent order under Section 1203.4 of the Penal Code allowing*  
33 *the person to withdraw his or her plea of guilty and to enter a plea*  
34 *of not guilty, setting aside the verdict of guilty, or dismissing the*  
35 *accusation, complaint, information, or indictment.*

36 *(2) The issue of penalty shall be heard by an administrative law*  
37 *judge from the Office of Administrative Hearings. The hearing*  
38 *shall not be had until the judgment of conviction has become final*  
39 *or, irrespective of a subsequent order under Section 1203.4 of the*  
40 *Penal Code, an order granting probation has been made*

1 *suspending the imposition of sentence; except that a licensee may,*  
2 *at his or her option, elect to have the issue of penalty decided*  
3 *before those time periods have elapsed. Where the licensee so*  
4 *elects, the issue of penalty shall be heard in the manner described*  
5 *in subdivision (b) at the hearing to determine whether the*  
6 *conviction was substantially related to the qualifications, functions,*  
7 *or duties of a licensee. If the conviction of a licensee who has made*  
8 *this election is overturned on appeal, any discipline ordered*  
9 *pursuant to this section shall automatically cease. Nothing in this*  
10 *subdivision shall prohibit the board from pursuing disciplinary*  
11 *action based on any cause other than the overturned conviction.*

12 *(e) The record of the proceedings resulting in a conviction,*  
13 *including a transcript of the testimony in those proceedings, may*  
14 *be received in evidence.*

15 *(f) Any other provision of law setting forth a procedure for the*  
16 *suspension or revocation of a license issued by the board shall not*  
17 *apply to proceedings conducted pursuant to this section.*

18 *SEC. 128. Section 3665.3 is added to the Business and*  
19 *Professions Code, to read:*

20 *3665.3. (a) Except as otherwise provided, any proposed*  
21 *decision or decision issued in accordance with the procedures set*  
22 *forth in Chapter 5 (commencing with Section 11500) of Part 1 of*  
23 *Division 3 of Title 2 of the Government Code, that contains any*  
24 *finding of fact that the licensee engaged in any act of sexual contact*  
25 *with a patient, as defined in subdivision (c) of Section 729, or any*  
26 *finding that the licensee has committed a sex offense, shall contain*  
27 *an order revoking the license. The proposed decision shall not*  
28 *contain any order staying the revocation of the licensee.*

29 *(b) As used in this section, the term sex offense shall mean any*  
30 *of the following:*

31 *(1) Any offense for which registration is required by Section*  
32 *290 of the Penal Code or a finding that a person committed such*  
33 *an act.*

34 *(2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,*  
35 *or 647(a) or (d) of the Penal Code or a finding that a person*  
36 *committed such an act.*

37 *(3) Any attempt to commit any of the offenses specified in this*  
38 *section.*

39 *(4) Any offense committed or attempted in any other state or*  
40 *against the laws of the United States which, if committed or*



1 attempted in this state, would have been punishable as one or more  
2 of the offenses specified in this section.

3 SEC. 129. Section 3665.4 is added to the Business and  
4 Professions Code, to read:

5 3665.4. (a) Except as otherwise provided, with regard to an  
6 individual who is required to register as a sex offender pursuant  
7 to Section 290 of the Penal Code, or the equivalent in another  
8 state or territory, under military law, or under federal law, the  
9 committee shall be subject to the following requirements:

10 (1) The committee shall deny an application by the individual  
11 for licensure in accordance with the procedures set forth in  
12 Chapter 5 (commencing with Section 11500) of Part 1 of Division  
13 3 of Title 2 of the Government Code.

14 (2) If the individual is licensed under this chapter, the committee  
15 shall promptly revoke the license of the individual in accordance  
16 with the procedures set forth in Chapter 5 (commencing with  
17 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
18 Code. The committee shall not stay the revocation and place the  
19 license on probation.

20 (3) The committee shall not reinstate or reissue the individual's  
21 license. The board shall not issue a stay of license denial nor place  
22 the license on probation.

23 (b) This section shall not apply to any of the following:

24 (1) An individual who has been relieved under Section 290.5 of  
25 the Penal Code of his or her duty to register as a sex offender, or  
26 whose duty to register has otherwise been formally terminated  
27 under California law or the law of the jurisdiction that requires  
28 his or her registration as a sex offender.

29 (2) An individual who is required to register as a sex offender  
30 pursuant to Section 290 of the Penal Code solely because of a  
31 misdemeanor conviction under Section 314 of the Penal Code.  
32 However, nothing in this paragraph shall prohibit the committee  
33 from exercising its discretion to discipline a licensee under any  
34 other provision of state law based upon the licensee's conviction  
35 under Section 314 of the Penal Code.

36 (3) Any administrative adjudication proceeding under Chapter  
37 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
38 2 of the Government Code that is fully adjudicated prior to January  
39 1, 2008. A petition for reinstatement of a revoked or surrendered  
40 license shall be considered a new proceeding for purposes of this

1 *paragraph, and the prohibition against reinstating a license to an*  
2 *individual who is required to register as a sex offender shall be*  
3 *applicable.*

4 *SEC. 130. Section 3665.5 is added to the Business and*  
5 *Professions Code, to read:*

6 *3665.5. (a) Notwithstanding any other provision of law making*  
7 *a communication between a licensee and his or her patients a*  
8 *privileged communication, those provisions shall not apply to*  
9 *investigations or proceedings conducted by the board. Members*  
10 *of the board, deputies, employees, agents, the office of the Attorney*  
11 *General, and representatives of the board shall keep in confidence*  
12 *during the course of investigations the names of any patients whose*  
13 *records are reviewed and may not disclose or reveal those names,*  
14 *except as is necessary during the course of an investigation, unless*  
15 *and until proceedings are instituted. The authority under this*  
16 *subdivision to examine records of patients in the office of a licensee*  
17 *is limited to records of patients who have complained to the board*  
18 *about that licensee.*

19 *(b) Notwithstanding any other provision of law, the Attorney*  
20 *General and his or her investigative agents, and the committee*  
21 *and its investigators and representatives may inquire into any*  
22 *alleged violation of the laws under the jurisdiction of the committee*  
23 *or any other federal or state law, regulation, or rule relevant to*  
24 *the practice regulated by the committee, whichever is applicable,*  
25 *and may inspect documents relevant to those investigations in*  
26 *accordance with the following procedures:*

27 *(1) Any document relevant to an investigation may be inspected,*  
28 *and copies may be obtained, where a patient provides written*  
29 *authorization.*

30 *(2) Any document relevant to the business operations of a*  
31 *licensee, and not involving medical records attributable to*  
32 *identifiable patients, may be inspected and copied where relevant*  
33 *to an investigation of a licensee.*

34 *(c) In all cases where documents are inspected or copies of*  
35 *those documents are received, their acquisition or review shall be*  
36 *arranged so as not to unnecessarily disrupt the medical and*  
37 *business operations of the licensee or of the facility where the*  
38 *records are kept or used.*

39 *(d) Where certified documents are lawfully requested from*  
40 *licensees in accordance with this section by the Attorney General*

1 or his or her agents or deputies, or investigators of any board, the  
2 documents shall be provided within 10 business days of receipt of  
3 the request, unless the licensee is unable to provide the certified  
4 documents within this time period for good cause, including, but  
5 not limited to, physical inability to access the records in the time  
6 allowed due to illness or travel. Failure to produce requested  
7 certified documents or copies thereof, after being informed of the  
8 required deadline, shall constitute unprofessional conduct. The  
9 committee may use its authority to cite and fine a licensee for any  
10 violation of this section. This remedy is in addition to any other  
11 authority of the committee to sanction a licensee for a delay in  
12 producing requested records.

13 (e) Searches conducted of the office or medical facility of any  
14 licensee shall not interfere with the recordkeeping format or  
15 preservation needs of any licensee necessary for the lawful care  
16 of patients.

17 (f) The licensee shall cooperate with the board in furnishing  
18 information or assistance as may be required, including, but not  
19 limited to, participation in an interview with investigators or  
20 representatives of the committee.

21 (g) This section shall not apply to a licensee who does not have  
22 access to, and control over, certified medical records or other  
23 types of documents that belong to or are controlled by a health  
24 facility or clinic.

25 SEC. 131. Section 3665.6 is added to the Business and  
26 Professions Code, to read:

27 3665.6. (a) (1) Notwithstanding any other provision of law,  
28 a licensee who fails or refuses to comply with a request for the  
29 certified medical records of a patient that is accompanied by that  
30 patient's written authorization for release of records to the  
31 committee together with a notice citing this section and describing  
32 the penalties for failure to comply with this section shall be  
33 required to pay to the board a civil penalty of up to one thousand  
34 dollars (\$1,000) per day for each day that the documents have not  
35 been produced after the 15th day, up to ten thousand dollars  
36 (\$10,000), unless the licensee is unable to provide the documents  
37 within this time period for good cause.

38 (2) A health care facility shall comply with a request for the  
39 certified medical records of a patient that is accompanied by that  
40 patient's written authorization for release of records to the

1 committee together with a notice citing this section and describing  
2 the penalties for failure to comply with this section. Failure to  
3 provide the authorizing patient's certified medical records to the  
4 board within 15 days of receiving the request, authorization, and  
5 notice shall subject the health care facility to a civil penalty,  
6 payable to the committee, of up to one thousand dollars (\$1,000)  
7 per day for each day that the documents have not been produced  
8 after the 15th day, up to ten thousand dollars (\$10,000), unless  
9 the health care facility is unable to provide the documents within  
10 this time period for good cause. This paragraph shall not require  
11 health care facilities to assist the committee in obtaining the  
12 patient's authorization. The committee shall pay the reasonable  
13 costs of copying the certified medical records, but shall not be  
14 required to make that payment prior to the production of the  
15 medical records.

16 (b) (1) A licensee who fails or refuses to comply with a court  
17 order, issued in the enforcement of a subpoena, mandating the  
18 release of records to the committee, shall pay to the committee a  
19 civil penalty of up to one thousand dollars (\$1,000) per day for  
20 each day that the documents have not been produced after the date  
21 by which the court order requires the documents to be produced,  
22 up to ten thousand dollars (\$10,000), unless it is determined that  
23 the order is unlawful or invalid. Any statute of limitations  
24 applicable to the filing of an accusation by the committee shall be  
25 tolled during the period the licensee is out of compliance with the  
26 court order and during any related appeals.

27 (2) Any licensee who fails or refuses to comply with a court  
28 order, issued in the enforcement of a subpoena, mandating the  
29 release of records to a board is guilty of a misdemeanor punishable  
30 by a fine payable to the committee not to exceed five thousand  
31 dollars (\$5,000). The fine shall be added to the licensee's renewal  
32 fee if it is not paid by the next succeeding renewal date. Any statute  
33 of limitations applicable to the filing of an accusation by the  
34 committee shall be tolled during the period the licensee is out of  
35 compliance with the court order and during any related appeals.

36 (3) A health care facility that fails or refuses to comply with a  
37 court order, issued in the enforcement of a subpoena, mandating  
38 the release of patient records to the committee, that is accompanied  
39 by a notice citing this section and describing the penalties for  
40 failure to comply with this section, shall pay to the committee a

1 civil penalty of up to one thousand dollars (\$1,000) per day for  
2 each day that the documents have not been produced, up to ten  
3 thousand dollars (\$10,000), after the date by which the court order  
4 requires the documents to be produced, unless it is determined  
5 that the order is unlawful or invalid. Any statute of limitations  
6 applicable to the filing of an accusation by the committee against  
7 a licensee shall be tolled during the period the health care facility  
8 is out of compliance with the court order and during any related  
9 appeals.

10 (4) Any health care facility that fails or refuses to comply with  
11 a court order, issued in the enforcement of a subpoena, mandating  
12 the release of records to a healing arts board is guilty of a  
13 misdemeanor punishable by a fine payable to the committee not  
14 to exceed five thousand dollars (\$5,000). Any statute of limitations  
15 applicable to the filing of an accusation by the committee against  
16 a licensee shall be tolled during the period the health care facility  
17 is out of compliance with the court order and during any related  
18 appeals.

19 (c) Multiple acts by a licensee in violation of subdivision (b)  
20 shall be punishable by a fine not to exceed five thousand dollars  
21 (\$5,000) or by imprisonment in a county jail not exceeding six  
22 months, or by both that fine and imprisonment. Multiple acts by  
23 a health care facility in violation of subdivision (b) shall be  
24 punishable by a fine not to exceed five thousand dollars (\$5,000),  
25 shall be reported to the State Department of Public Health, and  
26 shall be considered as grounds for disciplinary action with respect  
27 to licensure, including suspension or revocation of the license or  
28 certificate.

29 (d) A failure or refusal of a licensee to comply with a court  
30 order, issued in the enforcement of a subpoena, mandating the  
31 release of records to the committee constitutes unprofessional  
32 conduct and is grounds for suspension or revocation of his or her  
33 license.

34 (e) Imposition of the civil penalties authorized by this section  
35 shall be in accordance with the Administrative Procedure Act  
36 (Chapter 5 (commencing with Section 11500) of Division 3 of Title  
37 2 of the Government Code). Any civil penalties paid to, or received  
38 by, the committee pursuant to this section shall be deposited into  
39 the fund administered by the committee.

1 (f) For purposes of this section, “certified medical records”  
2 means a copy of the patient’s medical records authenticated by  
3 the licensee or health care facility, as appropriate, on a form  
4 prescribed by the licensee’s board.

5 (g) For purposes of this section, a “health care facility” means  
6 a clinic or health facility licensed or exempt from licensure  
7 pursuant to Division 2 (commencing with Section 1200) of the  
8 Health and Safety Code.

9 (h) If the committee complies with Section 1684.1, 2225.5, or  
10 2969, the committee shall not be subject to the requirements of  
11 this section.

12 (i) This section shall not apply to a licensee who does not have  
13 access to, or control over, certified medical records or other types  
14 of documents that belong to or are controlled by a health facility  
15 or clinic.

16 SEC. 132. Section 3665.7 is added to the Business and  
17 Professions Code, to read:

18 3665.7. (a) Notwithstanding any other provision of law, any  
19 employer of a licensee shall report to the committee the suspension  
20 or termination for cause, or any resignation in lieu of suspension  
21 or termination for cause, of any licensee in its employ within 15  
22 business days. The report shall not be made until after the  
23 conclusion of the review process specified in Section 52.3 of Title  
24 2 of the California Code of Regulations and *Skelly v. State*  
25 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This  
26 required reporting shall not constitute a waiver of confidentiality  
27 of medical records. The information reported or disclosed shall  
28 be kept confidential except as provided in subdivision (c) of Section  
29 800 and shall not be subject to discovery in civil cases.

30 (b) The information to be reported by the employer shall include  
31 the name and license number of the licensee involved, a  
32 description of the facts and circumstances of the suspension or  
33 termination for cause, any resignation in lieu of suspension or  
34 termination for cause, and any other relevant information deemed  
35 appropriate by the employer.

36 (c) The committee shall be entitled to inspect and copy the  
37 following documents in the record for any suspension or  
38 termination for cause, or any resignation in lieu of suspension or  
39 termination for cause, resulting in action that is required to be  
40 reported pursuant to this section:

1     (1) Any statement for suspension or termination of the licensee.  
2     (2) Any document or exhibits relevant to the suspension or  
3     termination.

4     (d) If, during the investigation by the committee of the cause  
5     for the termination or suspension or resignation of the licensee,  
6     it is found that there has been a violation of existing state or federal  
7     law, the committee shall report the violation to the appropriate  
8     agency.

9     (e) For purposes of this section, “suspension or termination for  
10    cause” or “resignation in lieu of suspension or termination for  
11    cause” is defined as resignation, suspension, or termination from  
12    employment for any of the following reasons:

13    (1) Use of controlled substances or alcohol to the extent that it  
14    impairs the licensee’s ability to safely practice.

15    (2) Unlawful sale of a controlled substance or other prescription  
16    items.

17    (3) Patient or client abuse, neglect, physical harm, or sexual  
18    contact with a patient or client.

19    (4) Gross negligence or incompetence.

20    (5) Theft from a patient or client, any other employee, or the  
21    employer.

22    (f) As used in this section, the following definitions apply:

23    (1) “Gross negligence” means a substantial departure from the  
24    standard of care, which, under similar circumstances, would have  
25    ordinarily been exercised by a competent licensee, and which has  
26    or could have resulted in harm to the consumer. An exercise of so  
27    slight a degree of care as to justify the belief that there was a  
28    conscious disregard or indifference for the health, safety, or  
29    welfare of the consumer shall be considered a substantial departure  
30    from the standard of care.

31    (2) “Incompetence” means the lack of possession of, and the  
32    failure to exercise that degree of learning, skill, care, and  
33    experience ordinarily possessed by, a responsible licensee.

34    (3) “Willful” means a knowing and intentional violation of a  
35    known legal duty.

36    (g) (1) Willful failure of an employer to make a report required  
37    by this section is punishable by an administrative fine not to exceed  
38    one hundred thousand dollars (\$100,000) per violation.

1 (2) Any failure of an employer, other than willful failure, to  
2 make a report required by this section is punishable by an  
3 administrative fine not to exceed fifty thousand dollars (\$50,000).

4 (h) The committee shall investigate the circumstances underlying  
5 any report received pursuant to this section within 30 days to  
6 determine if an interim suspension order or temporary restraining  
7 order should be issued. The board shall otherwise provide timely  
8 disposition of the reports received pursuant to this section.

9 (i) The committee shall send to the licentiate a copy of the report  
10 along with the reasons for the filing of the report and notice  
11 advising the licentiate of his or her right to submit additional  
12 statements or other information to the board.

13 (j) Pursuant to Section 43.8 of the Civil Code, no person shall  
14 incur any civil penalty as a result of making any report required  
15 by this article.

16 (k) No report is required under this section where a report of  
17 the action taken is already required under Section 805.

18 SEC. 133. Section 3665.8 is added to the Business and  
19 Professions Code, to read:

20 3665.8. Unless otherwise provided, on or after July 1, 2013,  
21 the committee shall post on its Internet Web site the following  
22 information, including the name and license number, in its  
23 possession, custody, or control regarding every licensee for which  
24 the committee licenses:

25 (a) With regard to the status of every license, whether or not  
26 the licensee or former licensee is in good standing, subject to a  
27 temporary restraining order, subject to an interim suspension  
28 order, subject to a restriction or cease practice ordered pursuant  
29 to Section 23 of the Penal Code, or subject to any of the  
30 enforcement actions described in Section 803.1.

31 (b) With regard to prior discipline of a licensee, whether or not  
32 the licensee or former licensee has been subject to discipline by  
33 the board or by the board of another state or jurisdiction, as  
34 described in Section 803.1.

35 (c) Any felony conviction of a licensee reported to the board.

36 (d) All current accusations filed by the Attorney General,  
37 including those accusations that are on appeal. For purposes of  
38 this paragraph, "current accusation" means an accusation that  
39 has not been dismissed, withdrawn, or settled, and has not been



1 *finally decided upon by an administrative law judge and the board*  
2 *unless an appeal of that decision is pending.*

3 *(e) Any malpractice judgment or arbitration award imposed*  
4 *against a licensee and reported to the committee.*

5 *(f) Any hospital disciplinary action imposed against a licensee*  
6 *that resulted in the termination or revocation of a licensee's*  
7 *hospital staff privileges for a medical disciplinary cause or reason*  
8 *pursuant to Section 3665.8 or 805.*

9 *(g) Any misdemeanor conviction of a licensee that results in a*  
10 *disciplinary action or an accusation that is not subsequently*  
11 *withdrawn or dismissed.*

12 *(h) Appropriate disclaimers and explanatory statements to*  
13 *accompany the above information, including an explanation of*  
14 *what types of information are not disclosed. These disclaimers*  
15 *and statements shall be developed by the board and shall be*  
16 *adopted by regulation.*

17 *(i) The information provided on the Internet shall be in*  
18 *accordance with the California Public Records Act (Chapter 3.5*  
19 *(commencing with Section 6250) of Division 7 of Title 1 of the*  
20 *Government Code) and the Information Practices Act of 1977*  
21 *(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4*  
22 *of Division 3 of the Civil Code) and shall comply with the*  
23 *Department of Consumer Affairs Guidelines for Access to Public*  
24 *Records.*

25 *(j) Information provided on the Internet may not include*  
26 *personal information, unless otherwise provided pursuant to this*  
27 *chapter, including the home telephone number, date of birth, or*  
28 *social security number. The information may not include the*  
29 *licensee's address, but may include the city and county of the*  
30 *licensee's address of record.*

31 *SEC. 134. Section 3665.9 is added to the Business and*  
32 *Professions Code, to read:*

33 *3665.9. (a) Unless otherwise provided, if a licensee possesses*  
34 *a license or is otherwise authorized to practice in any state other*  
35 *than California or by any agency of the federal government and*  
36 *that license or authority is suspended or revoked outright, the*  
37 *California license of the licensee shall be suspended automatically*  
38 *for the duration of the suspension or revocation, unless terminated*  
39 *or rescinded as provided in subdivision (c). The committee shall*

1 *notify the licensee of the license suspension and of his or her right*  
2 *to have the issue of penalty heard as provided in this section.*

3 *(b) Upon its own motion or for good cause shown, a committee*  
4 *may decline to impose or may set aside the suspension when it*  
5 *appears to be in the interest of justice to do so, with due regard*  
6 *to maintaining the integrity of, and confidence in, the specific*  
7 *healing art.*

8 *(c) The issue of penalty shall be heard by an administrative law*  
9 *judge sitting alone or with a panel of the committee, in the*  
10 *discretion of the board. A licensee may request a hearing on the*  
11 *penalty and that hearing shall be held within 90 days from the*  
12 *date of the request. If the order suspending or revoking the license*  
13 *or authority to practice is overturned on appeal, any discipline*  
14 *ordered pursuant to this section shall automatically cease. Upon*  
15 *a showing to the administrative law judge or panel by the licensee*  
16 *that the out-of-state action is not a basis for discipline in*  
17 *California, the suspension shall be rescinded. If an accusation for*  
18 *permanent discipline is not filed within 90 days of the suspension*  
19 *imposed pursuant to this section, the suspension shall automatically*  
20 *terminate.*

21 *(d) The record of the proceedings that resulted in the suspension*  
22 *or revocation of the licensee's out-of-state license or authority to*  
23 *practice, including a transcript of the testimony therein, may be*  
24 *received in evidence.*

25 *(e) This section shall not apply to a licensee who maintains his*  
26 *or her primary practice in California, as evidenced by having*  
27 *maintained a practice in this state for not less than one year*  
28 *immediately preceding the date of suspension or revocation.*  
29 *Nothing in this section shall preclude a licensee's license from*  
30 *being suspended pursuant to any other provision of law.*

31 *(f) This section shall not apply to a licensee whose license has*  
32 *been surrendered, whose only discipline is a medical staff*  
33 *disciplinary action at a federal hospital and not for medical*  
34 *disciplinary cause or reason as that term is defined in Section 805,*  
35 *or whose revocation or suspension has been stayed, even if the*  
36 *licensee remains subject to terms of probation or other discipline.*

37 *(g) This section shall not apply to a suspension or revocation*  
38 *imposed by a state that is based solely on the prior discipline of*  
39 *the licensee by another state.*

1     (h) *The other provisions of this article setting forth a procedure*  
2 *for the suspension or revocation of a licensee's license or*  
3 *certificate shall not apply to summary suspensions issued pursuant*  
4 *to this section. If a summary suspension has been issued pursuant*  
5 *to this section, the licensee may request that the hearing on the*  
6 *penalty conducted pursuant to subdivision (c) be held at the same*  
7 *time as a hearing on the accusation.*

8     (i) *A board that complies with Section 2310 shall not be subject*  
9 *to the requirements of this section.*

10    SEC. 135. *Section 3769.4 is added to the Business and*  
11 *Professions Code, to read:*

12     3769.4. (a) *The board may delegate to its executive officer the*  
13 *authority to adopt a proposed default decision where an*  
14 *administrative action to revoke a license has been filed and the*  
15 *licensee has failed to file a notice of defense or to appear at the*  
16 *hearing and a proposed default decision revoking the license has*  
17 *been issued.*

18     (b) *The board may delegate to its executive officer the authority*  
19 *to adopt a proposed settlement agreement where an administrative*  
20 *action to revoke a license has been filed by the board and the*  
21 *licensee has agreed to the revocation or surrender of his or her*  
22 *license.*

23     (c) *The executive officer shall, at scheduled board meetings,*  
24 *report to the board the number of proposed default decisions or*  
25 *proposed settlement agreements adopted pursuant to this section.*

26    SEC. 136. *Section 3769.5 is added to the Business and*  
27 *Professions Code, to read:*

28     3769.5. (a) *Notwithstanding Section 11415.60 of the*  
29 *Government Code, the board may enter into a settlement with a*  
30 *licensee or applicant in lieu of the issuance of an accusation or*  
31 *statement of issues against that licensee or applicant, as applicable.*

32     (b) *The settlement shall include language identifying the factual*  
33 *basis for the action being taken and a list of the statutes or*  
34 *regulations violated.*

35     (c) *A person who enters a settlement pursuant to this section is*  
36 *not precluded from filing a petition, in the timeframe permitted by*  
37 *law, to modify the terms of the settlement or petition for early*  
38 *termination of probation, if probation is part of the settlement.*

39     (d) *Any settlement against a licensee executed pursuant to this*  
40 *section shall be considered discipline and a public record and*

1 shall be posted on the applicable board's Internet Web site. Any  
2 settlement against an applicant executed pursuant to this section  
3 shall be considered a public record and shall be posted on the  
4 applicable board's Internet Web site.

5 (e) The executive officer shall, at scheduled board meetings,  
6 report to the board the number of proposed settlement agreements  
7 adopted pursuant to this section.

8 SEC. 137. Section 3769.6 is added to the Business and  
9 Professions Code, to read:

10 3769.6. (a) The license of a licensee shall be suspended  
11 automatically during any time that the licensee is incarcerated  
12 after conviction of a felony, regardless of whether the conviction  
13 has been appealed. The board shall, immediately upon receipt of  
14 the certified copy of the record of conviction, determine whether  
15 the license of the licensee has been automatically suspended by  
16 virtue of his or her incarceration, and if so, the duration of that  
17 suspension. The board shall notify the licensee in writing of the  
18 license suspension and of his or her right to elect to have the issue  
19 of penalty heard as provided in subdivision (d).

20 (b) Upon receipt of the certified copy of the record of conviction,  
21 if after a hearing before an administrative law judge from the  
22 Office of Administrative Hearings it is determined that the felony  
23 for which the licensee was convicted was substantially related to  
24 the qualifications, functions, or duties of a licensee, the board  
25 shall suspend the license until the time for appeal has elapsed, if  
26 no appeal has been taken, or until the judgment of conviction has  
27 been affirmed on appeal or has otherwise become final, and until  
28 further order of the board.

29 (c) Notwithstanding subdivision (b), a conviction of a charge  
30 of violating any federal statute or regulation or any statute or  
31 regulation of this state, regulating dangerous drugs or controlled  
32 substances, or a conviction of Section 187, 261, 262, or 288 of the  
33 Penal Code, shall be conclusively presumed to be substantially  
34 related to the qualifications, functions, or duties of a licensee and  
35 no hearing shall be held on this issue. However, upon its own  
36 motion or for good cause shown, the board may decline to impose  
37 or may set aside the suspension when it appears to be in the interest  
38 of justice to do so, with due regard to maintaining the integrity of,  
39 and confidence in, the practice regulated by the board.

1     (d) (1) Discipline may be ordered against a licensee in  
2     accordance with the statutes and regulations of the board when  
3     the time for appeal has elapsed, the judgment of conviction has  
4     been affirmed on appeal, or an order granting probation is made  
5     suspending the imposition of sentence, irrespective of a subsequent  
6     order under Section 1203.4 of the Penal Code allowing the person  
7     to withdraw his or her plea of guilty and to enter a plea of not  
8     guilty, setting aside the verdict of guilty, or dismissing the  
9     accusation, complaint, information, or indictment.

10    (2) The issue of penalty shall be heard by an administrative law  
11    judge from the Office of Administrative Hearings. The hearing  
12    shall not be had until the judgment of conviction has become final  
13    or, irrespective of a subsequent order under Section 1203.4 of the  
14    Penal Code, an order granting probation has been made  
15    suspending the imposition of sentence; except that a licensee may,  
16    at his or her option, elect to have the issue of penalty decided  
17    before those time periods have elapsed. Where the licensee so  
18    elects, the issue of penalty shall be heard in the manner described  
19    in subdivision (b) at the hearing to determine whether the  
20    conviction was substantially related to the qualifications, functions,  
21    or duties of a licensee. If the conviction of a licensee who has made  
22    this election is overturned on appeal, any discipline ordered  
23    pursuant to this section shall automatically cease. Nothing in this  
24    subdivision shall prohibit the board from pursuing disciplinary  
25    action based on any cause other than the overturned conviction.

26    (e) The record of the proceedings resulting in a conviction,  
27    including a transcript of the testimony in those proceedings, may  
28    be received in evidence.

29    (f) Any other provision of law setting forth a procedure for the  
30    suspension or revocation of a license issued by the board shall not  
31    apply to proceedings conducted pursuant to this section.

32    SEC. 138. Section 3769.7 is added to the Business and  
33    Professions Code, to read:

34    3769.7. (a) Except as otherwise provided, any proposed  
35    decision or decision issued in accordance with the procedures set  
36    forth in Chapter 5 (commencing with Section 11500) of Part 1 of  
37    Division 3 of Title 2 of the Government Code, that contains any  
38    finding of fact that the licensee engaged in any act of sexual contact  
39    with a patient, as defined in subdivision (c) of Section 729, or any  
40    finding that the licensee has committed a sex offense, shall contain

1 *an order revoking the license. The proposed decision shall not*  
2 *contain any order staying the revocation of the licensee.*

3 *(b) As used in this section, the term sex offense shall mean any*  
4 *of the following:*

5 *(1) Any offense for which registration is required by Section*  
6 *290 of the Penal Code or a finding that a person committed such*  
7 *an act.*

8 *(2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,*  
9 *or 647(a) or (d) of the Penal Code or a finding that a person*  
10 *committed such an act.*

11 *(3) Any attempt to commit any of the offenses specified in this*  
12 *section.*

13 *(4) Any offense committed or attempted in any other state or*  
14 *against the laws of the United States which, if committed or*  
15 *attempted in this state, would have been punishable as one or more*  
16 *of the offenses specified in this section.*

17 *SEC. 139. Section 3769.8 is added to the Business and*  
18 *Professions Code, to read:*

19 *3769.8. (a) Except as otherwise provided, with regard to an*  
20 *individual who is required to register as a sex offender pursuant*  
21 *to Section 290 of the Penal Code, or the equivalent in another*  
22 *state or territory, under military law, or under federal law, the*  
23 *board shall be subject to the following requirements:*

24 *(1) The board shall deny an application by the individual for*  
25 *licensure in accordance with the procedures set forth in Chapter*  
26 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
27 *2 of the Government Code.*

28 *(2) If the individual is licensed under this chapter, the board*  
29 *shall promptly revoke the license of the individual in accordance*  
30 *with the procedures set forth in Chapter 5 (commencing with*  
31 *Section 11500) of Part 1 of Division 3 of Title 2 of the Government*  
32 *Code. The board shall not stay the revocation and place the license*  
33 *on probation.*

34 *(3) The board shall not reinstate or reissue the individual's*  
35 *license. The board shall not issue a stay of license denial nor place*  
36 *the license on probation.*

37 *(b) This section shall not apply to any of the following:*

38 *(1) An individual who has been relieved under Section 290.5 of*  
39 *the Penal Code of his or her duty to register as a sex offender, or*  
40 *whose duty to register has otherwise been formally terminated*

1 *under California law or the law of the jurisdiction that requires*  
2 *his or her registration as a sex offender.*

3 *(2) An individual who is required to register as a sex offender*  
4 *pursuant to Section 290 of the Penal Code solely because of a*  
5 *misdemeanor conviction under Section 314 of the Penal Code.*  
6 *However, nothing in this paragraph shall prohibit the board from*  
7 *exercising its discretion to discipline a licensee under any other*  
8 *provision of state law based upon the licensee's conviction under*  
9 *Section 314 of the Penal Code.*

10 *(3) Any administrative adjudication proceeding under Chapter*  
11 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*  
12 *2 of the Government Code that is fully adjudicated prior to January*  
13 *1, 2008. A petition for reinstatement of a revoked or surrendered*  
14 *license shall be considered a new proceeding for purposes of this*  
15 *paragraph, and the prohibition against reinstating a license to an*  
16 *individual who is required to register as a sex offender shall be*  
17 *applicable.*

18 *SEC. 140. Section 3769.9 is added to the Business and*  
19 *Professions Code, to read:*

20 *3769.9. Unless otherwise provided, on or after July 1, 2013,*  
21 *the board shall post on its Internet Web site the following*  
22 *information in its possession, custody, or control regarding every*  
23 *licensee for which the board licenses:*

24 *(a) With regard to the status of every license, whether or not*  
25 *the licensee or former licensee is in good standing, subject to a*  
26 *temporary restraining order, subject to an interim suspension*  
27 *order, subject to a restriction or cease practice ordered pursuant*  
28 *to Section 23 of the Penal Code, or subject to any of the*  
29 *enforcement actions described in Section 803.1.*

30 *(b) With regard to prior discipline of a licensee, whether or not*  
31 *the licensee or former licensee has been subject to discipline by*  
32 *the board or by the board of another state or jurisdiction, as*  
33 *described in Section 803.1.*

34 *(c) Any felony conviction of a licensee reported to the board.*

35 *(d) All current accusations filed by the Attorney General,*  
36 *including those accusations that are on appeal. For purposes of*  
37 *this paragraph, "current accusation" means an accusation that*  
38 *has not been dismissed, withdrawn, or settled, and has not been*  
39 *finally decided upon by an administrative law judge and the board*  
40 *unless an appeal of that decision is pending.*

1 (e) Any malpractice judgment or arbitration award imposed  
2 against a licensee and reported to the healing arts board.

3 (f) Any hospital disciplinary action imposed against a licensee  
4 that resulted in the termination or revocation of a licensee's  
5 hospital staff privileges for a medical disciplinary cause or reason  
6 pursuant to Section 805.

7 (g) Any misdemeanor conviction of a licensee that results in a  
8 disciplinary action or an accusation that is not subsequently  
9 withdrawn or dismissed.

10 (h) Appropriate disclaimers and explanatory statements to  
11 accompany the above information, including an explanation of  
12 what types of information are not disclosed. These disclaimers  
13 and statements shall be developed by the board and shall be  
14 adopted by regulation.

15 (i) The information provided on the Internet shall be in  
16 accordance with the California Public Records Act (Chapter 3.5  
17 (commencing with Section 6250) of Division 7 of Title 1 of the  
18 Government Code) and the Information Practices Act of 1977  
19 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4  
20 of Division 3 of the Civil Code) and shall comply with the  
21 Department of Consumer Affairs Guidelines for Access to Public  
22 Records.

23 (j) Information provided on the Internet may not include  
24 personal information, unless otherwise provided pursuant to this  
25 chapter, including the home telephone number, date of birth, or  
26 social security number. The information may not include the  
27 licensee's address, but may include the city and county of the  
28 licensee's address of record.

29 SEC. 141. Section 3796.10 is added to the Business and  
30 Professions Code, to read:

31 3796.10. (a) Unless otherwise provided, if a licensee possesses  
32 a license or is otherwise authorized to practice in any state other  
33 than California or by any agency of the federal government and  
34 that license or authority is suspended or revoked outright, the  
35 California license of the licensee shall be suspended automatically  
36 for the duration of the suspension or revocation, unless terminated  
37 or rescinded as provided in subdivision (c). The healing arts board  
38 shall notify the licensee of the license suspension and of his or her  
39 right to have the issue of penalty heard as provided in this section.



1     (b) Upon its own motion or for good cause shown, a healing  
2     arts board may decline to impose or may set aside the suspension  
3     when it appears to be in the interest of justice to do so, with due  
4     regard to maintaining the integrity of, and confidence in, the  
5     specific healing art.

6     (c) The issue of penalty shall be heard by an administrative law  
7     judge sitting alone or with a panel of the board, in the discretion  
8     of the board. A licensee may request a hearing on the penalty and  
9     that hearing shall be held within 90 days from the date of the  
10    request. If the order suspending or revoking the license or authority  
11    to practice is overturned on appeal, any discipline ordered  
12    pursuant to this section shall automatically cease. Upon a showing  
13    to the administrative law judge or panel by the licensee that the  
14    out-of-state action is not a basis for discipline in California, the  
15    suspension shall be rescinded. If an accusation for permanent  
16    discipline is not filed within 90 days of the suspension imposed  
17    pursuant to this section, the suspension shall automatically  
18    terminate.

19    (d) The record of the proceedings that resulted in the suspension  
20    or revocation of the licensee's out-of-state license or authority to  
21    practice, including a transcript of the testimony therein, may be  
22    received in evidence.

23    (e) This section shall not apply to a licensee who maintains his  
24    or her primary practice in California, as evidenced by having  
25    maintained a practice in this state for not less than one year  
26    immediately preceding the date of suspension or revocation.  
27    Nothing in this section shall preclude a licensee's license from  
28    being suspended pursuant to any other provision of law.

29    (f) This section shall not apply to a licensee whose license has  
30    been surrendered, whose only discipline is a medical staff  
31    disciplinary action at a federal hospital and not for medical  
32    disciplinary cause or reason as that term is defined in Section 805,  
33    or whose revocation or suspension has been stayed, even if the  
34    licensee remains subject to terms of probation or other discipline.

35    (g) This section shall not apply to a suspension or revocation  
36    imposed by a state that is based solely on the prior discipline of  
37    the licensee by another state.

38    (h) The other provisions of this article setting forth a procedure  
39    for the suspension or revocation of a licensee's license or  
40    certificate shall not apply to summary suspensions issued pursuant

1 to this section. If a summary suspension has been issued pursuant  
2 to this section, the licensee may request that the hearing on the  
3 penalty conducted pursuant to subdivision (c) be held at the same  
4 time as a hearing on the accusation.

5 (i) A board that complies with Section 2310 shall not be subject  
6 to the requirements of this section.

7 SEC. 142. Section 4316 is added to the Business and  
8 Professions Code, to read:

9 4316. (a) The board may delegate to its executive officer the  
10 authority to adopt a proposed default decision where an  
11 administrative action to revoke a license has been filed and the  
12 licensee has failed to file a notice of defense or to appear at the  
13 hearing and a proposed default decision revoking the license has  
14 been issued.

15 (b) The board may delegate to its executive officer the authority  
16 to adopt a proposed settlement agreement where an administrative  
17 action to revoke a license has been filed by the board and the  
18 licensee has agreed to the revocation or surrender of his or her  
19 license.

20 (c) The executive officer shall, at scheduled board meetings,  
21 report to the board the number of proposed default decisions or  
22 proposed settlement agreements adopted pursuant to this section.

23 SEC. 143. Section 4316.1 is added to the Business and  
24 Professions Code, to read:

25 4316.1. (a) Notwithstanding Section 11415.60 of the  
26 Government Code, the board may enter into a settlement with a  
27 licensee or applicant in lieu of the issuance of an accusation or  
28 statement of issues against that licensee or applicant, as applicable.

29 (b) The settlement shall include language identifying the factual  
30 basis for the action being taken and a list of the statutes or  
31 regulations violated.

32 (c) A person who enters a settlement pursuant to this section is  
33 not precluded from filing a petition, in the timeframe permitted by  
34 law, to modify the terms of the settlement or petition for early  
35 termination of probation, if probation is part of the settlement.

36 (d) Any settlement against a licensee executed pursuant to this  
37 section shall be considered discipline and a public record and  
38 shall be posted on the applicable board's Internet Web site. Any  
39 settlement against an applicant executed pursuant to this section

1 *shall be considered a public record and shall be posted on the*  
2 *applicable board's Internet Web site.*

3 *(e) The executive officer shall, at scheduled board meetings,*  
4 *report to the board the number of proposed settlement agreements*  
5 *adopted pursuant to this section.*

6 *SEC. 144. Section 4316.2 is added to the Business and*  
7 *Professions Code, to read:*

8 *4316.2. (a) The license of a licensee shall be suspended*  
9 *automatically during any time that the licensee is incarcerated*  
10 *after conviction of a felony, regardless of whether the conviction*  
11 *has been appealed. The board shall, immediately upon receipt of*  
12 *the certified copy of the record of conviction, determine whether*  
13 *the license of the licensee has been automatically suspended by*  
14 *virtue of his or her incarceration, and if so, the duration of that*  
15 *suspension. The board shall notify the licensee in writing of the*  
16 *license suspension and of his or her right to elect to have the issue*  
17 *of penalty heard as provided in subdivision (d).*

18 *(b) Upon receipt of the certified copy of the record of conviction,*  
19 *if after a hearing before an administrative law judge from the*  
20 *Office of Administrative Hearings it is determined that the felony*  
21 *for which the licensee was convicted was substantially related to*  
22 *the qualifications, functions, or duties of a licensee, the board*  
23 *shall suspend the license until the time for appeal has elapsed, if*  
24 *no appeal has been taken, or until the judgment of conviction has*  
25 *been affirmed on appeal or has otherwise become final, and until*  
26 *further order of the board.*

27 *(c) Notwithstanding subdivision (b), a conviction of a charge*  
28 *of violating any federal statute or regulation or any statute or*  
29 *regulation of this state, regulating dangerous drugs or controlled*  
30 *substances, or a conviction of Section 187, 261, 262, or 288 of the*  
31 *Penal Code, shall be conclusively presumed to be substantially*  
32 *related to the qualifications, functions, or duties of a licensee and*  
33 *no hearing shall be held on this issue. However, upon its own*  
34 *motion or for good cause shown, the board may decline to impose*  
35 *or may set aside the suspension when it appears to be in the interest*  
36 *of justice to do so, with due regard to maintaining the integrity of,*  
37 *and confidence in, the practice regulated by the board.*

38 *(d) (1) Discipline may be ordered against a licensee in*  
39 *accordance with the statutes and regulations of the board when*  
40 *the time for appeal has elapsed, the judgment of conviction has*

1 *been affirmed on appeal, or an order granting probation is made*  
2 *suspending the imposition of sentence, irrespective of a subsequent*  
3 *order under Section 1203.4 of the Penal Code allowing the person*  
4 *to withdraw his or her plea of guilty and to enter a plea of not*  
5 *guilty, setting aside the verdict of guilty, or dismissing the*  
6 *accusation, complaint, information, or indictment.*

7 *(2) The issue of penalty shall be heard by an administrative law*  
8 *judge from the Office of Administrative Hearings. The hearing*  
9 *shall not be had until the judgment of conviction has become final*  
10 *or, irrespective of a subsequent order under Section 1203.4 of the*  
11 *Penal Code, an order granting probation has been made*  
12 *suspending the imposition of sentence; except that a licensee may,*  
13 *at his or her option, elect to have the issue of penalty decided*  
14 *before those time periods have elapsed. Where the licensee so*  
15 *elects, the issue of penalty shall be heard in the manner described*  
16 *in subdivision (b) at the hearing to determine whether the*  
17 *conviction was substantially related to the qualifications, functions,*  
18 *or duties of a licensee. If the conviction of a licensee who has made*  
19 *this election is overturned on appeal, any discipline ordered*  
20 *pursuant to this section shall automatically cease. Nothing in this*  
21 *subdivision shall prohibit the board from pursuing disciplinary*  
22 *action based on any cause other than the overturned conviction.*

23 *(e) The record of the proceedings resulting in a conviction,*  
24 *including a transcript of the testimony in those proceedings, may*  
25 *be received in evidence.*

26 *(f) Any other provision of law setting forth a procedure for the*  
27 *suspension or revocation of a license issued by the board shall not*  
28 *apply to proceedings conducted pursuant to this section.*

29 *SEC. 145. Section 4316.3 is added to the Business and*  
30 *Professions Code, to read:*

31 *4316.3. (a) Except as otherwise provided, any proposed*  
32 *decision or decision issued in accordance with the procedures set*  
33 *forth in Chapter 5 (commencing with Section 11500) of Part 1 of*  
34 *Division 3 of Title 2 of the Government Code, that contains any*  
35 *finding of fact that the licensee engaged in any act of sexual contact*  
36 *with a patient, as defined in subdivision (c) of Section 729, or any*  
37 *finding that the licensee has committed a sex offense, shall contain*  
38 *an order revoking the license. The proposed decision shall not*  
39 *contain any order staying the revocation of the licensee.*

1     ***(b) As used in this section, the term sex offense shall mean any***  
2 ***of the following:***

3     ***(1) Any offense for which registration is required by Section***  
4 ***290 of the Penal Code or a finding that a person committed such***  
5 ***an act.***

6     ***(2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,***  
7 ***or 647(a) or (d) of the Penal Code or a finding that a person***  
8 ***committed such an act.***

9     ***(3) Any attempt to commit any of the offenses specified in this***  
10 ***section.***

11     ***(4) Any offense committed or attempted in any other state or***  
12 ***against the laws of the United States which, if committed or***  
13 ***attempted in this state, would have been punishable as one or more***  
14 ***of the offenses specified in this section.***

15     ***SEC. 146. Section 4316.4 is added to the Business and***  
16 ***Professions Code, to read:***

17     ***4316.4. (a) Except as otherwise provided, with regard to an***  
18 ***individual who is required to register as a sex offender pursuant***  
19 ***to Section 290 of the Penal Code, or the equivalent in another***  
20 ***state or territory, under military law, or under federal law, the***  
21 ***board shall be subject to the following requirements:***

22     ***(1) The board shall deny an application by the individual for***  
23 ***licensure in accordance with the procedures set forth in Chapter***  
24 ***5 (commencing with Section 11500) of Part 1 of Division 3 of Title***  
25 ***2 of the Government Code.***

26     ***(2) If the individual is licensed under this chapter, the board***  
27 ***shall promptly revoke the license of the individual in accordance***  
28 ***with the procedures set forth in Chapter 5 (commencing with***  
29 ***Section 11500) of Part 1 of Division 3 of Title 2 of the Government***  
30 ***Code. The board shall not stay the revocation and place the license***  
31 ***on probation.***

32     ***(3) The board shall not reinstate or reissue the individual's***  
33 ***license. The board shall not issue a stay of license denial nor place***  
34 ***the license on probation.***

35     ***(b) This section shall not apply to any of the following:***

36     ***(1) An individual who has been relieved under Section 290.5 of***  
37 ***the Penal Code of his or her duty to register as a sex offender, or***  
38 ***whose duty to register has otherwise been formally terminated***  
39 ***under California law or the law of the jurisdiction that requires***  
40 ***his or her registration as a sex offender.***

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under Section 314 of the Penal Code.

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to January 1, 2008. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

SEC. 147. Section 4316.5 is added to the Business and Professions Code, to read:

4316.5. Unless otherwise provided, on or after July 1, 2013, the board shall post on its Internet Web site the following information in its possession, custody, or control regarding every licensee for which the board licenses:

(a) With regard to the status of every license, whether or not the licensee or former licensee is in good standing, subject to a temporary restraining order, subject to an interim suspension order, subject to a restriction or cease practice ordered pursuant to Section 23 of the Penal Code, or subject to any of the enforcement actions described in Section 803.1.

(b) With regard to prior discipline of a licensee, whether or not the licensee or former licensee has been subject to discipline by the board or by the board of another state or jurisdiction, as described in Section 803.1.

(c) Any felony conviction of a licensee reported to the board.

(d) All current accusations filed by the Attorney General, including those accusations that are on appeal. For purposes of this paragraph, "current accusation" means an accusation that has not been dismissed, withdrawn, or settled, and has not been finally decided upon by an administrative law judge and the board unless an appeal of that decision is pending.

(e) Any malpractice judgment or arbitration award imposed against a licensee and reported to the healing arts board.

1 (f) Any hospital disciplinary action imposed against a licensee  
2 that resulted in the termination or revocation of a licensee's  
3 hospital staff privileges for a medical disciplinary cause or reason  
4 pursuant to Section 805.

5 (g) Any misdemeanor conviction of a licensee that results in a  
6 disciplinary action or an accusation that is not subsequently  
7 withdrawn or dismissed.

8 (h) Appropriate disclaimers and explanatory statements to  
9 accompany the above information, including an explanation of  
10 what types of information are not disclosed. These disclaimers  
11 and statements shall be developed by the board and shall be  
12 adopted by regulation.

13 (i) The information provided on the Internet shall be in  
14 accordance with the California Public Records Act (Chapter 3.5  
15 commencing with Section 6250) of Division 7 of Title 1 of the  
16 Government Code) and the Information Practices Act of 1977  
17 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4  
18 of Division 3 of the Civil Code) and shall comply with the  
19 Department of Consumer Affairs Guidelines for Access to Public  
20 Records.

21 (j) Information provided on the Internet may not include  
22 personal information, unless otherwise provided pursuant to this  
23 chapter, including the home telephone number, date of birth, or  
24 social security number. The information may not include the  
25 licensee's address, but may include the city and county of the  
26 licensee's address of record.

27 SEC. 148. Section 4316.6 is added to the Business and  
28 Professions Code, to read:

29 4316.6. (a) Unless otherwise provided, if a licensee possesses  
30 a license or is otherwise authorized to practice in any state other  
31 than California or by any agency of the federal government and  
32 that license or authority is suspended or revoked outright, the  
33 California license of the licensee shall be suspended automatically  
34 for the duration of the suspension or revocation, unless terminated  
35 or rescinded as provided in subdivision (c). The healing arts board  
36 shall notify the licensee of the license suspension and of his or her  
37 right to have the issue of penalty heard as provided in this section.

38 (b) Upon its own motion or for good cause shown, a healing  
39 arts board may decline to impose or may set aside the suspension  
40 when it appears to be in the interest of justice to do so, with due

1 regard to maintaining the integrity of, and confidence in, the  
2 specific healing art.

3 (c) The issue of penalty shall be heard by an administrative law  
4 judge sitting alone or with a panel of the board, in the discretion  
5 of the board. A licensee may request a hearing on the penalty and  
6 that hearing shall be held within 90 days from the date of the  
7 request. If the order suspending or revoking the license or authority  
8 to practice is overturned on appeal, any discipline ordered  
9 pursuant to this section shall automatically cease. Upon a showing  
10 to the administrative law judge or panel by the licensee that the  
11 out-of-state action is not a basis for discipline in California, the  
12 suspension shall be rescinded. If an accusation for permanent  
13 discipline is not filed within 90 days of the suspension imposed  
14 pursuant to this section, the suspension shall automatically  
15 terminate.

16 (d) The record of the proceedings that resulted in the suspension  
17 or revocation of the licensee's out-of-state license or authority to  
18 practice, including a transcript of the testimony therein, may be  
19 received in evidence.

20 (e) This section shall not apply to a licensee who maintains his  
21 or her primary practice in California, as evidenced by having  
22 maintained a practice in this state for not less than one year  
23 immediately preceding the date of suspension or revocation.  
24 Nothing in this section shall preclude a licensee's license from  
25 being suspended pursuant to any other provision of law.

26 (f) This section shall not apply to a licensee whose license has  
27 been surrendered, whose only discipline is a medical staff  
28 disciplinary action at a federal hospital and not for medical  
29 disciplinary cause or reason as that term is defined in Section 805,  
30 or whose revocation or suspension has been stayed, even if the  
31 licensee remains subject to terms of probation or other discipline.

32 (g) This section shall not apply to a suspension or revocation  
33 imposed by a state that is based solely on the prior discipline of  
34 the licensee by another state.

35 (h) The other provisions of this article setting forth a procedure  
36 for the suspension or revocation of a licensee's license or  
37 certificate shall not apply to summary suspensions issued pursuant  
38 to this section. If a summary suspension has been issued pursuant  
39 to this section, the licensee may request that the hearing on the



1 *penalty conducted pursuant to subdivision (c) be held at the same*  
2 *time as a hearing on the accusation.*

3 *(i) A board that complies with Section 2310 shall not be subject*  
4 *to the requirements of this section.*

5 *SEC. 149. Section 4375 is added to the Business and*  
6 *Professions Code, to read:*

7 *4375. (a) It is the intent of the Legislature, through a request*  
8 *in 2012 from the Joint Legislative Audit Committee, that the Bureau*  
9 *of State Audits conduct a thorough performance audit of the*  
10 *Pharmacists Recovery Program to evaluate the effectiveness and*  
11 *efficiency of the program, and make recommendations regarding*  
12 *the continuation of the program and any changes or reforms*  
13 *required to ensure that pharmacists and intern pharmacists*  
14 *participating in the program are appropriately monitored, and*  
15 *the public is protected from pharmacists and intern pharmacists*  
16 *who are impaired due to alcohol or drug abuse or mental or*  
17 *physical illness. The audit shall be completed by January 1, 2013.*  
18 *The board and its staff shall cooperate with the audit, and the*  
19 *board shall provide data, information, and case files as requested*  
20 *by the auditor to perform all of its duties. The provision of*  
21 *confidential data, information, and case files by the board to the*  
22 *auditor shall not constitute a waiver of any exemption from*  
23 *disclosure or discovery or of any confidentiality protection or*  
24 *privilege otherwise provided by law that is applicable to the data,*  
25 *information, or case files.*

26 *(b) It is the intent of the Legislature that the audit shall be paid*  
27 *for with funds from the Pharmacy Board Contingent Fund.*

28 *SEC. 150. Section 4526 is added to the Business and*  
29 *Professions Code, to read:*

30 *4526. (a) The board may delegate to its executive officer the*  
31 *authority to adopt a proposed default decision where an*  
32 *administrative action to revoke a license has been filed and the*  
33 *licensee has failed to file a notice of defense or to appear at the*  
34 *hearing and a proposed default decision revoking the license has*  
35 *been issued.*

36 *(b) The board may delegate to its executive officer the authority*  
37 *to adopt a proposed settlement agreement where an administrative*  
38 *action to revoke a license has been filed by the board and the*  
39 *licensee has agreed to the revocation or surrender of his or her*  
40 *license.*

1 (c) The executive officer shall, at scheduled board meetings,  
2 report to the board the number of proposed default decisions or  
3 proposed settlement agreements adopted pursuant to this section.

4 SEC. 151. Section 4526.1 is added to the Business and  
5 Professions Code, to read:

6 4526.1. (a) Notwithstanding Section 11415.60 of the  
7 Government Code, the board may enter into a settlement with a  
8 licensee or applicant in lieu of the issuance of an accusation or  
9 statement of issues against that licensee or applicant, as applicable.

10 (b) The settlement shall include language identifying the factual  
11 basis for the action being taken and a list of the statutes or  
12 regulations violated.

13 (c) A person who enters a settlement pursuant to this section is  
14 not precluded from filing a petition, in the timeframe permitted by  
15 law, to modify the terms of the settlement or petition for early  
16 termination of probation, if probation is part of the settlement.

17 (d) Any settlement against a licensee executed pursuant to this  
18 section shall be considered discipline and a public record and  
19 shall be posted on the applicable board's Internet Web site. Any  
20 settlement against an applicant executed pursuant to this section  
21 shall be considered a public record and shall be posted on the  
22 applicable board's Internet Web site.

23 (e) The executive officer shall, at scheduled board meetings,  
24 report to the board the number of proposed settlement agreements  
25 adopted pursuant to this section.

26 SEC. 152. Section 4526.2 is added to the Business and  
27 Professions Code, to read:

28 4526.2. (a) The license of a licensee shall be suspended  
29 automatically during any time that the licensee is incarcerated  
30 after conviction of a felony, regardless of whether the conviction  
31 has been appealed. The board shall, immediately upon receipt of  
32 the certified copy of the record of conviction, determine whether  
33 the license of the licensee has been automatically suspended by  
34 virtue of his or her incarceration, and if so, the duration of that  
35 suspension. The board shall notify the licensee in writing of the  
36 license suspension and of his or her right to elect to have the issue  
37 of penalty heard as provided in subdivision (d).

38 (b) Upon receipt of the certified copy of the record of conviction,  
39 if after a hearing before an administrative law judge from the  
40 Office of Administrative Hearings it is determined that the felony

1 *for which the licensee was convicted was substantially related to*  
2 *the qualifications, functions, or duties of a licensee, the board*  
3 *shall suspend the license until the time for appeal has elapsed, if*  
4 *no appeal has been taken, or until the judgment of conviction has*  
5 *been affirmed on appeal or has otherwise become final, and until*  
6 *further order of the board.*

7 *(c) Notwithstanding subdivision (b), a conviction of a charge*  
8 *of violating any federal statute or regulation or any statute or*  
9 *regulation of this state, regulating dangerous drugs or controlled*  
10 *substances, or a conviction of Section 187, 261, 262, or 288 of the*  
11 *Penal Code, shall be conclusively presumed to be substantially*  
12 *related to the qualifications, functions, or duties of a licensee and*  
13 *no hearing shall be held on this issue. However, upon its own*  
14 *motion or for good cause shown, the board may decline to impose*  
15 *or may set aside the suspension when it appears to be in the interest*  
16 *of justice to do so, with due regard to maintaining the integrity of,*  
17 *and confidence in, the practice regulated by the board.*

18 *(d) (1) Discipline may be ordered against a licensee in*  
19 *accordance with the statutes and regulations of the board when*  
20 *the time for appeal has elapsed, the judgment of conviction has*  
21 *been affirmed on appeal, or an order granting probation is made*  
22 *suspending the imposition of sentence, irrespective of a subsequent*  
23 *order under Section 1203.4 of the Penal Code allowing the person*  
24 *to withdraw his or her plea of guilty and to enter a plea of not*  
25 *guilty, setting aside the verdict of guilty, or dismissing the*  
26 *accusation, complaint, information, or indictment.*

27 *(2) The issue of penalty shall be heard by an administrative law*  
28 *judge from the Office of Administrative Hearings. The hearing*  
29 *shall not be had until the judgment of conviction has become final*  
30 *or, irrespective of a subsequent order under Section 1203.4 of the*  
31 *Penal Code, an order granting probation has been made*  
32 *suspending the imposition of sentence; except that a licensee may,*  
33 *at his or her option, elect to have the issue of penalty decided*  
34 *before those time periods have elapsed. Where the licensee so*  
35 *elects, the issue of penalty shall be heard in the manner described*  
36 *in subdivision (b) at the hearing to determine whether the*  
37 *conviction was substantially related to the qualifications, functions,*  
38 *or duties of a licensee. If the conviction of a licensee who has made*  
39 *this election is overturned on appeal, any discipline ordered*  
40 *pursuant to this section shall automatically cease. Nothing in this*

1 subdivision shall prohibit the board from pursuing disciplinary  
2 action based on any cause other than the overturned conviction.

3 (e) The record of the proceedings resulting in a conviction,  
4 including a transcript of the testimony in those proceedings, may  
5 be received in evidence.

6 (f) Any other provision of law setting forth a procedure for the  
7 suspension or revocation of a license issued by the board shall not  
8 apply to proceedings conducted pursuant to this section.

9 SEC. 153. Section 4526.3 is added to the Business and  
10 Professions Code, to read:

11 4526.3. (a) Except as otherwise provided, any proposed  
12 decision or decision issued in accordance with the procedures set  
13 forth in Chapter 5 (commencing with Section 11500) of Part 1 of  
14 Division 3 of Title 2 of the Government Code, that contains any  
15 finding of fact that the licensee engaged in any act of sexual contact  
16 with a patient, as defined in subdivision (c) of Section 729, or any  
17 finding that the licensee has committed a sex offense, shall contain  
18 an order revoking the license. The proposed decision shall not  
19 contain any order staying the revocation of the licensee.

20 (b) As used in this section, the term sex offense shall mean any  
21 of the following:

22 (1) Any offense for which registration is required by Section  
23 290 of the Penal Code or a finding that a person committed such  
24 an act.

25 (2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,  
26 or 647(a) or (d) of the Penal Code or a finding that a person  
27 committed such an act.

28 (3) Any attempt to commit any of the offenses specified in this  
29 section.

30 (4) Any offense committed or attempted in any other state or  
31 against the laws of the United States which, if committed or  
32 attempted in this state, would have been punishable as one or more  
33 of the offenses specified in this section.

34 SEC. 154. Section 4526.4 is added to the Business and  
35 Professions Code, to read:

36 4526.4. (a) Except as otherwise provided, with regard to an  
37 individual who is required to register as a sex offender pursuant  
38 to Section 290 of the Penal Code, or the equivalent in another  
39 state or territory, under military law, or under federal law, the  
40 board shall be subject to the following requirements:

1     (1) The board shall deny an application by the individual for  
2     licensure in accordance with the procedures set forth in Chapter  
3     5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
4     2 of the Government Code.

5     (2) If the individual is licensed under this chapter, the board  
6     shall promptly revoke the license of the individual in accordance  
7     with the procedures set forth in Chapter 5 (commencing with  
8     Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
9     Code. The board shall not stay the revocation and place the license  
10    on probation.

11    (3) The board shall not reinstate or reissue the individual's  
12    license. The board shall not issue a stay of license denial nor place  
13    the license on probation.

14    (b) This section shall not apply to any of the following:

15    (1) An individual who has been relieved under Section 290.5 of  
16    the Penal Code of his or her duty to register as a sex offender, or  
17    whose duty to register has otherwise been formally terminated  
18    under California law or the law of the jurisdiction that requires  
19    his or her registration as a sex offender.

20    (2) An individual who is required to register as a sex offender  
21    pursuant to Section 290 of the Penal Code solely because of a  
22    misdemeanor conviction under Section 314 of the Penal Code.  
23    However, nothing in this paragraph shall prohibit the board from  
24    exercising its discretion to discipline a licensee under any other  
25    provision of state law based upon the licensee's conviction under  
26    Section 314 of the Penal Code.

27    (3) Any administrative adjudication proceeding under Chapter  
28    5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
29    2 of the Government Code that is fully adjudicated prior to January  
30    1, 2008. A petition for reinstatement of a revoked or surrendered  
31    license shall be considered a new proceeding for purposes of this  
32    paragraph, and the prohibition against reinstating a license to an  
33    individual who is required to register as a sex offender shall be  
34    applicable.

35    SEC. 155. Section 4526.5 is added to the Business and  
36    Professions Code, to read:

37    4526.5. (a) Notwithstanding any other provision of law making  
38    a communication between a licensee and his or her patients a  
39    privileged communication, those provisions shall not apply to  
40    investigations or proceedings conducted by the board. Members

1 of the board, deputies, employees, agents, the office of the Attorney  
2 General, and representatives of the board shall keep in confidence  
3 during the course of investigations the names of any patients whose  
4 records are reviewed and may not disclose or reveal those names,  
5 except as is necessary during the course of an investigation, unless  
6 and until proceedings are instituted. The authority under this  
7 subdivision to examine records of patients in the office of a licensee  
8 is limited to records of patients who have complained to the board  
9 about that licensee.

10 (b) Notwithstanding any other provision of law, the Attorney  
11 General and his or her investigative agents, and the board and its  
12 investigators and representatives may inquire into any alleged  
13 violation of the laws under the jurisdiction of the board or any  
14 other federal or state law, regulation, or rule relevant to the  
15 practice regulated by the board, whichever is applicable, and may  
16 inspect documents relevant to those investigations in accordance  
17 with the following procedures:

18 (1) Any document relevant to an investigation may be inspected,  
19 and copies may be obtained, where a patient provides written  
20 authorization.

21 (2) Any document relevant to the business operations of a  
22 licensee, and not involving medical records attributable to  
23 identifiable patients, may be inspected and copied where relevant  
24 to an investigation of a licensee.

25 (c) In all cases where documents are inspected or copies of  
26 those documents are received, their acquisition or review shall be  
27 arranged so as not to unnecessarily disrupt the medical and  
28 business operations of the licensee or of the facility where the  
29 records are kept or used.

30 (d) Where certified documents are lawfully requested from  
31 licensees in accordance with this section by the Attorney General  
32 or his or her agents or deputies, or investigators of any board, the  
33 documents shall be provided within 10 business days of receipt of  
34 the request, unless the licensee is unable to provide the certified  
35 documents within this time period for good cause, including, but  
36 not limited to, physical inability to access the records in the time  
37 allowed due to illness or travel. Failure to produce requested  
38 certified documents or copies thereof, after being informed of the  
39 required deadline, shall constitute unprofessional conduct. A board  
40 may use its authority to cite and fine a licensee for any violation

1 of this section. This remedy is in addition to any other authority  
2 of the board to sanction a licensee for a delay in producing  
3 requested records.

4 (e) Searches conducted of the office or medical facility of any  
5 licensee shall not interfere with the recordkeeping format or  
6 preservation needs of any licensee necessary for the lawful care  
7 of patients.

8 (f) The licensee shall cooperate with the board in furnishing  
9 information or assistance as may be required, including, but not  
10 limited to, participation in an interview with investigators or  
11 representatives of the healing arts board.

12 (g) This section shall not apply to a licensee who does not have  
13 access to, and control over, certified medical records or other  
14 types of documents that belong to or are controlled by a health  
15 facility or clinic.

16 SEC. 156. Section 4526.6 is added to the Business and  
17 Professions Code, to read:

18 4526.6. (a) (1) Notwithstanding any other provision of law,  
19 a licensee who fails or refuses to comply with a request for the  
20 certified medical records of a patient that is accompanied by that  
21 patient's written authorization for release of records to a board  
22 together with a notice citing this section and describing the  
23 penalties for failure to comply with this section shall be required  
24 to pay to the board a civil penalty of up to one thousand dollars  
25 (\$1,000) per day for each day that the documents have not been  
26 produced after the 15th day, up to ten thousand dollars (\$10,000),  
27 unless the licensee is unable to provide the documents within this  
28 time period for good cause.

29 (2) A health care facility shall comply with a request for the  
30 certified medical records of a patient that is accompanied by that  
31 patient's written authorization for release of records to a board  
32 together with a notice citing this section and describing the  
33 penalties for failure to comply with this section. Failure to provide  
34 the authorizing patient's certified medical records to the board  
35 within 15 days of receiving the request, authorization, and notice  
36 shall subject the health care facility to a civil penalty, payable to  
37 the healing arts board, of up to one thousand dollars (\$1,000) per  
38 day for each day that the documents have not been produced after  
39 the 15th day, up to ten thousand dollars (\$10,000), unless the  
40 health care facility is unable to provide the documents within this

1 *time period for good cause. This paragraph shall not require health*  
2 *care facilities to assist the board in obtaining the patient's*  
3 *authorization. The board shall pay the reasonable costs of copying*  
4 *the certified medical records, but shall not be required to make*  
5 *that payment prior to the production of the medical records.*

6 *(b) (1) A licensee who fails or refuses to comply with a court*  
7 *order, issued in the enforcement of a subpoena, mandating the*  
8 *release of records to the board, shall pay to the board a civil*  
9 *penalty of up to one thousand dollars (\$1,000) per day for each*  
10 *day that the documents have not been produced after the date by*  
11 *which the court order requires the documents to be produced, up*  
12 *to ten thousand dollars (\$10,000), unless it is determined that the*  
13 *order is unlawful or invalid. Any statute of limitations applicable*  
14 *to the filing of an accusation by the board shall be tolled during*  
15 *the period the licensee is out of compliance with the court order*  
16 *and during any related appeals.*

17 *(2) Any licensee who fails or refuses to comply with a court*  
18 *order, issued in the enforcement of a subpoena, mandating the*  
19 *release of records to a board is guilty of a misdemeanor punishable*  
20 *by a fine payable to the board not to exceed five thousand dollars*  
21 *(\$5,000). The fine shall be added to the licensee's renewal fee if*  
22 *it is not paid by the next succeeding renewal date. Any statute of*  
23 *limitations applicable to the filing of an accusation by the board*  
24 *shall be tolled during the period the licensee is out of compliance*  
25 *with the court order and during any related appeals.*

26 *(3) A health care facility that fails or refuses to comply with a*  
27 *court order, issued in the enforcement of a subpoena, mandating*  
28 *the release of patient records to the board, that is accompanied*  
29 *by a notice citing this section and describing the penalties for*  
30 *failure to comply with this section, shall pay to the board a civil*  
31 *penalty of up to one thousand dollars (\$1,000) per day for each*  
32 *day that the documents have not been produced, up to ten thousand*  
33 *dollars (\$10,000), after the date by which the court order requires*  
34 *the documents to be produced, unless it is determined that the*  
35 *order is unlawful or invalid. Any statute of limitations applicable*  
36 *to the filing of an accusation by the board against a licensee shall*  
37 *be tolled during the period the health care facility is out of*  
38 *compliance with the court order and during any related appeals.*

39 *(4) Any health care facility that fails or refuses to comply with*  
40 *a court order, issued in the enforcement of a subpoena, mandating*



1 *the release of records to a healing arts board is guilty of a*  
2 *misdemeanor punishable by a fine payable to the board not to*  
3 *exceed five thousand dollars (\$5,000). Any statute of limitations*  
4 *applicable to the filing of an accusation by the healing arts board*  
5 *against a licensee shall be tolled during the period the health care*  
6 *facility is out of compliance with the court order and during any*  
7 *related appeals.*

8 *(c) Multiple acts by a licensee in violation of subdivision (b)*  
9 *shall be punishable by a fine not to exceed five thousand dollars*  
10 *(\$5,000) or by imprisonment in a county jail not exceeding six*  
11 *months, or by both that fine and imprisonment. Multiple acts by*  
12 *a health care facility in violation of subdivision (b) shall be*  
13 *punishable by a fine not to exceed five thousand dollars (\$5,000),*  
14 *shall be reported to the State Department of Public Health, and*  
15 *shall be considered as grounds for disciplinary action with respect*  
16 *to licensure, including suspension or revocation of the license or*  
17 *certificate.*

18 *(d) A failure or refusal of a licensee to comply with a court*  
19 *order, issued in the enforcement of a subpoena, mandating the*  
20 *release of records to the healing arts board constitutes*  
21 *unprofessional conduct and is grounds for suspension or revocation*  
22 *of his or her license.*

23 *(e) Imposition of the civil penalties authorized by this section*  
24 *shall be in accordance with the Administrative Procedure Act*  
25 *(Chapter 5 (commencing with Section 11500) of Division 3 of Title*  
26 *2 of the Government Code). Any civil penalties paid to, or received*  
27 *by, the board pursuant to this section shall be deposited into the*  
28 *fund administered by the board.*

29 *(f) For purposes of this section, “certified medical records”*  
30 *means a copy of the patient’s medical records authenticated by*  
31 *the licensee or health care facility, as appropriate, on a form*  
32 *prescribed by the licensee’s board.*

33 *(g) For purposes of this section, a “health care facility” means*  
34 *a clinic or health facility licensed or exempt from licensure*  
35 *pursuant to Division 2 (commencing with Section 1200) of the*  
36 *Health and Safety Code.*

37 *(h) If a board complies with Section 1684.1, 2225.5, or 2969,*  
38 *that board shall not be subject to the requirements of this section.*

39 *(i) This section shall not apply to a licensee who does not have*  
40 *access to, or control over, certified medical records or other types*

1 of documents that belong to or are controlled by a health facility  
2 or clinic.

3 SEC. 157. Section 4526.8 is added to the Business and  
4 Professions Code, to read:

5 4526.8. Unless otherwise provided, on or after July 1, 2013,  
6 the board shall post on its Internet Web site the following  
7 information, including the name and the license number, in its  
8 possession, custody, or control regarding every licensee for which  
9 the board licenses:

10 (a) With regard to the status of every license, whether or not  
11 the licensee or former licensee is in good standing, subject to a  
12 temporary restraining order, subject to an interim suspension  
13 order, subject to a restriction or cease practice ordered pursuant  
14 to Section 23 of the Penal Code, or subject to any of the  
15 enforcement actions described in Section 803.1.

16 (b) With regard to prior discipline of a licensee, whether or not  
17 the licensee or former licensee has been subject to discipline by  
18 the board or by the board of another state or jurisdiction, as  
19 described in Section 803.1.

20 (c) Any felony conviction of a licensee reported to the board.

21 (d) All current accusations filed by the Attorney General,  
22 including those accusations that are on appeal. For purposes of  
23 this paragraph, "current accusation" means an accusation that  
24 has not been dismissed, withdrawn, or settled, and has not been  
25 finally decided upon by an administrative law judge and the board  
26 unless an appeal of that decision is pending.

27 (e) Any malpractice judgment or arbitration award imposed  
28 against a licensee and reported to the board.

29 (f) Any hospital disciplinary action imposed against a licensee  
30 that resulted in the termination or revocation of a licensee's  
31 hospital staff privileges for a medical disciplinary cause or reason  
32 pursuant to Section 4526.6 or 805.

33 (g) Any misdemeanor conviction of a licensee that results in a  
34 disciplinary action or an accusation that is not subsequently  
35 withdrawn or dismissed.

36 (h) Appropriate disclaimers and explanatory statements to  
37 accompany the above information, including an explanation of  
38 what types of information are not disclosed. These disclaimers  
39 and statements shall be developed by the board and shall be  
40 adopted by regulation.

1     (i) *The information provided on the Internet shall be in*  
2 *accordance with the California Public Records Act (Chapter 3.5*  
3 *(commencing with Section 6250) of Division 7 of Title 1 of the*  
4 *Government Code) and the Information Practices Act of 1977*  
5 *(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4*  
6 *of Division 3 of the Civil Code) and shall comply with the*  
7 *Department of Consumer Affairs Guidelines for Access to Public*  
8 *Records.*

9     (j) *Information provided on the Internet may not include*  
10 *personal information, unless otherwise provided pursuant to this*  
11 *chapter, including the home telephone number, date of birth, or*  
12 *social security number. The information may not include the*  
13 *licensee's address, but may include the city and county of the*  
14 *licensee's address of record.*

15     *SEC. 158. Section 4526.9 is added to the Business and*  
16 *Professions Code, to read:*

17     4526.9. (a) *Unless otherwise provided, if a licensee possesses*  
18 *a license or is otherwise authorized to practice in any state other*  
19 *than California or by any agency of the federal government and*  
20 *that license or authority is suspended or revoked outright, the*  
21 *California license of the licensee shall be suspended automatically*  
22 *for the duration of the suspension or revocation, unless terminated*  
23 *or rescinded as provided in subdivision (c). The healing arts board*  
24 *shall notify the licensee of the license suspension and of his or her*  
25 *right to have the issue of penalty heard as provided in this section.*

26     (b) *Upon its own motion or for good cause shown, the board*  
27 *may decline to impose or may set aside the suspension when it*  
28 *appears to be in the interest of justice to do so, with due regard*  
29 *to maintaining the integrity of, and confidence in, the specific*  
30 *healing art.*

31     (c) *The issue of penalty shall be heard by an administrative law*  
32 *judge sitting alone or with a panel of the board, in the discretion*  
33 *of the board. A licensee may request a hearing on the penalty and*  
34 *that hearing shall be held within 90 days from the date of the*  
35 *request. If the order suspending or revoking the license or authority*  
36 *to practice is overturned on appeal, any discipline ordered*  
37 *pursuant to this section shall automatically cease. Upon a showing*  
38 *to the administrative law judge or panel by the licensee that the*  
39 *out-of-state action is not a basis for discipline in California, the*  
40 *suspension shall be rescinded. If an accusation for permanent*

1 *discipline is not filed within 90 days of the suspension imposed*  
2 *pursuant to this section, the suspension shall automatically*  
3 *terminate.*

4 *(d) The record of the proceedings that resulted in the suspension*  
5 *or revocation of the licensee's out-of-state license or authority to*  
6 *practice, including a transcript of the testimony therein, may be*  
7 *received in evidence.*

8 *(e) This section shall not apply to a licensee who maintains his*  
9 *or her primary practice in California, as evidenced by having*  
10 *maintained a practice in this state for not less than one year*  
11 *immediately preceding the date of suspension or revocation.*  
12 *Nothing in this section shall preclude a licensee's license from*  
13 *being suspended pursuant to any other provision of law.*

14 *(f) This section shall not apply to a licensee whose license has*  
15 *been surrendered, whose only discipline is a medical staff*  
16 *disciplinary action at a federal hospital and not for medical*  
17 *disciplinary cause or reason as that term is defined in Section 805,*  
18 *or whose revocation or suspension has been stayed, even if the*  
19 *licensee remains subject to terms of probation or other discipline.*

20 *(g) This section shall not apply to a suspension or revocation*  
21 *imposed by a state that is based solely on the prior discipline of*  
22 *the licensee by another state.*

23 *(h) The other provisions of this article setting forth a procedure*  
24 *for the suspension or revocation of a licensee's license or*  
25 *certificate shall not apply to summary suspensions issued pursuant*  
26 *to this section. If a summary suspension has been issued pursuant*  
27 *to this section, the licensee may request that the hearing on the*  
28 *penalty conducted pursuant to subdivision (c) be held at the same*  
29 *time as a hearing on the accusation.*

30 *(i) A board that complies with Section 2310 shall not be subject*  
31 *to the requirements of this section.*

32 *SEC. 159. Section 4888 is added to the Business and*  
33 *Professions Code, to read:*

34 *4888. (a) The board may delegate to its executive officer the*  
35 *authority to adopt a proposed default decision where an*  
36 *administrative action to revoke a license has been filed and the*  
37 *licensee has failed to file a notice of defense or to appear at the*  
38 *hearing and a proposed default decision revoking the license has*  
39 *been issued.*

1     ***(b) The board may delegate to its executive officer the authority***  
2     ***to adopt a proposed settlement agreement where an administrative***  
3     ***action to revoke a license has been filed by the board and the***  
4     ***licensee has agreed to the revocation or surrender of his or her***  
5     ***license.***

6     ***(c) The executive officer shall, at scheduled board meetings,***  
7     ***report to the board the number of proposed default decisions or***  
8     ***proposed settlement agreements adopted pursuant to this section.***

9     ***SEC. 160. Section 4888.1 is added to the Business and***  
10    ***Professions Code, to read:***

11    ***4888.1. (a) Notwithstanding Section 11415.60 of the***  
12    ***Government Code, the board may enter into a settlement with a***  
13    ***licensee or applicant in lieu of the issuance of an accusation or***  
14    ***statement of issues against that licensee or applicant, as applicable.***

15    ***(b) The settlement shall include language identifying the factual***  
16    ***basis for the action being taken and a list of the statutes or***  
17    ***regulations violated.***

18    ***(c) A person who enters a settlement pursuant to this section is***  
19    ***not precluded from filing a petition, in the timeframe permitted by***  
20    ***law, to modify the terms of the settlement or petition for early***  
21    ***termination of probation, if probation is part of the settlement.***

22    ***(d) Any settlement against a licensee executed pursuant to this***  
23    ***section shall be considered discipline and a public record and***  
24    ***shall be posted on the applicable board's Internet Web site. Any***  
25    ***settlement against an applicant executed pursuant to this section***  
26    ***shall be considered a public record and shall be posted on the***  
27    ***applicable board's Internet Web site.***

28    ***(e) The executive officer shall, at scheduled board meetings,***  
29    ***report to the board the number of proposed settlement agreements***  
30    ***adopted pursuant to this section.***

31    ***SEC. 161. Section 4888.2 is added to the Business and***  
32    ***Professions Code, to read:***

33    ***4888.2. (a) The license of a licensee shall be suspended***  
34    ***automatically during any time that the licensee is incarcerated***  
35    ***after conviction of a felony, regardless of whether the conviction***  
36    ***has been appealed. The board shall, immediately upon receipt of***  
37    ***the certified copy of the record of conviction, determine whether***  
38    ***the license of the licensee has been automatically suspended by***  
39    ***virtue of his or her incarceration, and if so, the duration of that***  
40    ***suspension. The board shall notify the licensee in writing of the***

1 license suspension and of his or her right to elect to have the issue  
2 of penalty heard as provided in subdivision (d).

3 (b) Upon receipt of the certified copy of the record of conviction,  
4 if after a hearing before an administrative law judge from the  
5 Office of Administrative Hearings it is determined that the felony  
6 for which the licensee was convicted was substantially related to  
7 the qualifications, functions, or duties of a licensee, the board  
8 shall suspend the license until the time for appeal has elapsed, if  
9 no appeal has been taken, or until the judgment of conviction has  
10 been affirmed on appeal or has otherwise become final, and until  
11 further order of the board.

12 (c) Notwithstanding subdivision (b), a conviction of a charge  
13 of violating any federal statute or regulation or any statute or  
14 regulation of this state, regulating dangerous drugs or controlled  
15 substances, or a conviction of Section 187, 261, 262, or 288 of the  
16 Penal Code, shall be conclusively presumed to be substantially  
17 related to the qualifications, functions, or duties of a licensee and  
18 no hearing shall be held on this issue. However, upon its own  
19 motion or for good cause shown, the board may decline to impose  
20 or may set aside the suspension when it appears to be in the interest  
21 of justice to do so, with due regard to maintaining the integrity of,  
22 and confidence in, the practice regulated by the board.

23 (d) (1) Discipline may be ordered against a licensee in  
24 accordance with the statutes and regulations of the board when  
25 the time for appeal has elapsed, the judgment of conviction has  
26 been affirmed on appeal, or an order granting probation is made  
27 suspending the imposition of sentence, irrespective of a subsequent  
28 order under Section 1203.4 of the Penal Code allowing the person  
29 to withdraw his or her plea of guilty and to enter a plea of not  
30 guilty, setting aside the verdict of guilty, or dismissing the  
31 accusation, complaint, information, or indictment.

32 (2) The issue of penalty shall be heard by an administrative law  
33 judge from the Office of Administrative Hearings. The hearing  
34 shall not be had until the judgment of conviction has become final  
35 or, irrespective of a subsequent order under Section 1203.4 of the  
36 Penal Code, an order granting probation has been made  
37 suspending the imposition of sentence; except that a licensee may,  
38 at his or her option, elect to have the issue of penalty decided  
39 before those time periods have elapsed. Where the licensee so  
40 elects, the issue of penalty shall be heard in the manner described

1 in subdivision (b) at the hearing to determine whether the  
2 conviction was substantially related to the qualifications, functions,  
3 or duties of a licensee. If the conviction of a licensee who has made  
4 this election is overturned on appeal, any discipline ordered  
5 pursuant to this section shall automatically cease. Nothing in this  
6 subdivision shall prohibit the board from pursuing disciplinary  
7 action based on any cause other than the overturned conviction.

8 (e) The record of the proceedings resulting in a conviction,  
9 including a transcript of the testimony in those proceedings, may  
10 be received in evidence.

11 (f) Any other provision of law setting forth a procedure for the  
12 suspension or revocation of a license issued by the board shall not  
13 apply to proceedings conducted pursuant to this section.

14 SEC. 162. Section 4888.3 is added to the Business and  
15 Professions Code, to read:

16 4888.3. (a) Except as otherwise provided, any proposed  
17 decision or decision issued in accordance with the procedures set  
18 forth in Chapter 5 (commencing with Section 11500) of Part 1 of  
19 Division 3 of Title 2 of the Government Code, that contains any  
20 finding of fact that the licensee engaged in any act of sexual contact  
21 with a patient, as defined in subdivision (c) of Section 729, or any  
22 finding that the licensee has committed a sex offense, shall contain  
23 an order revoking the license. The proposed decision shall not  
24 contain any order staying the revocation of the licensee.

25 (b) As used in this section, the term sex offense shall mean any  
26 of the following:

27 (1) Any offense for which registration is required by Section  
28 290 of the Penal Code or a finding that a person committed such  
29 an act.

30 (2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,  
31 or 647(a) or (d) of the Penal Code or a finding that a person  
32 committed such an act.

33 (3) Any attempt to commit any of the offenses specified in this  
34 section.

35 (4) Any offense committed or attempted in any other state or  
36 against the laws of the United States which, if committed or  
37 attempted in this state, would have been punishable as one or more  
38 of the offenses specified in this section.

39 SEC. 163. Section 4888.4 is added to the Business and  
40 Professions Code, to read:

1     4888.4. (a) Except as otherwise provided, with regard to an  
2 individual who is required to register as a sex offender pursuant  
3 to Section 290 of the Penal Code, or the equivalent in another  
4 state or territory, under military law, or under federal law, the  
5 board shall be subject to the following requirements:

6     (1) The board shall deny an application by the individual for  
7 licensure in accordance with the procedures set forth in Chapter  
8 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
9 2 of the Government Code.

10    (2) If the individual is licensed under this chapter, the board  
11 shall promptly revoke the license of the individual in accordance  
12 with the procedures set forth in Chapter 5 (commencing with  
13 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
14 Code. The board shall not stay the revocation and place the license  
15 on probation.

16    (3) The board shall not reinstate or reissue the individual's  
17 license. The board shall not issue a stay of license denial nor place  
18 the license on probation.

19    (b) This section shall not apply to any of the following:

20    (1) An individual who has been relieved under Section 290.5 of  
21 the Penal Code of his or her duty to register as a sex offender, or  
22 whose duty to register has otherwise been formally terminated  
23 under California law or the law of the jurisdiction that requires  
24 his or her registration as a sex offender.

25    (2) An individual who is required to register as a sex offender  
26 pursuant to Section 290 of the Penal Code solely because of a  
27 misdemeanor conviction under Section 314 of the Penal Code.  
28 However, nothing in this paragraph shall prohibit the board from  
29 exercising its discretion to discipline a licensee under any other  
30 provision of state law based upon the licensee's conviction under  
31 Section 314 of the Penal Code.

32    (3) Any administrative adjudication proceeding under Chapter  
33 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
34 2 of the Government Code that is fully adjudicated prior to January  
35 1, 2008. A petition for reinstatement of a revoked or surrendered  
36 license shall be considered a new proceeding for purposes of this  
37 paragraph, and the prohibition against reinstating a license to an  
38 individual who is required to register as a sex offender shall be  
39 applicable.



1 SEC. 164. Section 4888.5 is added to the Business and  
2 Professions Code, to read:

3 4888.5. (a) Notwithstanding any other provision of law, any  
4 employer of a licensee shall report to the board the suspension or  
5 termination for cause, or any resignation in lieu of suspension or  
6 termination for cause, of any licensee in its employ within 15  
7 business days. The report shall not be made until after the  
8 conclusion of the review process specified in Section 52.3 of Title  
9 2 of the California Code of Regulations and *Skelly v. State*  
10 *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This  
11 required reporting shall not constitute a waiver of confidentiality  
12 of medical records. The information reported or disclosed shall  
13 be kept confidential except as provided in subdivision (c) of Section  
14 800 and shall not be subject to discovery in civil cases.

15 (b) The information to be reported by the employer shall include  
16 the name and license number of the licensee involved, a  
17 description of the facts and circumstances of the suspension or  
18 termination for cause, any resignation in lieu of suspension or  
19 termination for cause, and any other relevant information deemed  
20 appropriate by the employer.

21 (c) The board shall be entitled to inspect and copy the following  
22 documents in the record for any suspension or termination for  
23 cause, or any resignation in lieu of suspension or termination for  
24 cause, resulting in action that is required to be reported pursuant  
25 to this section:

26 (1) Any statement for suspension or termination of the licensee.

27 (2) Any document or exhibits relevant to the suspension or  
28 termination.

29 (d) If, during the investigation by the board of the cause for the  
30 termination or suspension or resignation of the licensee, it is found  
31 that there has been a violation of existing state or federal law, the  
32 board shall report the violation to the appropriate agency.

33 (e) For purposes of this section, “suspension or termination for  
34 cause” or “resignation in lieu of suspension or termination for  
35 cause” is defined as resignation, suspension, or termination from  
36 employment for any of the following reasons:

37 (1) Use of controlled substances or alcohol to the extent that it  
38 impairs the licensee’s ability to safely practice.

39 (2) Unlawful sale of a controlled substance or other prescription  
40 items.

1     (3) *Patient or client abuse, neglect, physical harm, or sexual*  
2 *contact with a patient or client.*

3     (4) *Gross negligence or incompetence.*

4     (5) *Theft from a patient or client, any other employee, or the*  
5 *employer.*

6     (f) *As used in this section, the following definitions apply:*

7     (1) *“Gross negligence” means a substantial departure from the*  
8 *standard of care, which, under similar circumstances, would have*  
9 *ordinarily been exercised by a competent licensee, and which has*  
10 *or could have resulted in harm to the consumer. An exercise of so*  
11 *slight a degree of care as to justify the belief that there was a*  
12 *conscious disregard or indifference for the health, safety, or*  
13 *welfare of the consumer shall be considered a substantial departure*  
14 *from the standard of care.*

15     (2) *“Incompetence” means the lack of possession of, and the*  
16 *failure to exercise that degree of learning, skill, care, and*  
17 *experience ordinarily possessed by, a responsible licensee.*

18     (3) *“Willful” means a knowing and intentional violation of a*  
19 *known legal duty.*

20     (g) (1) *Willful failure of an employer to make a report required*  
21 *by this section is punishable by an administrative fine not to exceed*  
22 *one hundred thousand dollars (\$100,000) per violation.*

23     (2) *Any failure of an employer, other than willful failure, to*  
24 *make a report required by this section is punishable by an*  
25 *administrative fine not to exceed fifty thousand dollars (\$50,000).*

26     (h) *The board shall investigate the circumstances underlying*  
27 *any report received pursuant to this section within 30 days to*  
28 *determine if an interim suspension order or temporary restraining*  
29 *order should be issued. The board shall otherwise provide timely*  
30 *disposition of the reports received pursuant to this section.*

31     (i) *The board shall send to the licensee a copy of the report*  
32 *along with the reasons for the filing of the report and notice*  
33 *advising the licensee of his or her right to submit additional*  
34 *statements or other information to the board.*

35     (j) *Pursuant to Section 43.8 of the Civil Code, no person shall*  
36 *incur any civil penalty as a result of making any report required*  
37 *by this article.*

38     (k) *No report is required under this section where a report of*  
39 *the action taken is already required under Section 805.*

1     *SEC. 165. Section 4888.6 is added to the Business and*  
2     *Professions Code, to read:*

3     *4888.6. Unless otherwise provided, on or after July 1, 2013,*  
4     *the board shall post on its Internet Web site the following*  
5     *information, including the name and license number, in its*  
6     *possession, custody, or control regarding every licensee for which*  
7     *the board licenses:*

8     *(a) With regard to the status of every license, whether or not*  
9     *the licensee or former licensee is in good standing, subject to a*  
10    *temporary restraining order, subject to an interim suspension*  
11    *order, subject to a restriction or cease practice ordered pursuant*  
12    *to Section 23 of the Penal Code, or subject to any of the*  
13    *enforcement actions described in Section 803.1.*

14    *(b) With regard to prior discipline of a licensee, whether or not*  
15    *the licensee or former licensee has been subject to discipline by*  
16    *the board or by the board of another state or jurisdiction, as*  
17    *described in Section 803.1.*

18    *(c) Any felony conviction of a licensee reported to the board.*

19    *(d) All current accusations filed by the Attorney General,*  
20    *including those accusations that are on appeal. For purposes of*  
21    *this paragraph, "current accusation" means an accusation that*  
22    *has not been dismissed, withdrawn, or settled, and has not been*  
23    *finally decided upon by an administrative law judge and the board*  
24    *unless an appeal of that decision is pending.*

25    *(e) Any malpractice judgment or arbitration award imposed*  
26    *against a licensee and reported to the board.*

27    *(f) Any hospital disciplinary action imposed against a licensee*  
28    *that resulted in the termination or revocation of a licensee's*  
29    *hospital staff privileges for a medical disciplinary cause or reason*  
30    *pursuant to Section 805.*

31    *(g) Any misdemeanor conviction of a licensee that results in a*  
32    *disciplinary action or an accusation that is not subsequently*  
33    *withdrawn or dismissed.*

34    *(h) Appropriate disclaimers and explanatory statements to*  
35    *accompany the above information, including an explanation of*  
36    *what types of information are not disclosed. These disclaimers*  
37    *and statements shall be developed by the board and shall be*  
38    *adopted by regulation.*

39    *(i) The information provided on the Internet shall be in*  
40    *accordance with the California Public Records Act (Chapter 3.5*

1 (commencing with Section 6250) of Division 7 of Title 1 of the  
2 Government Code) and the Information Practices Act of 1977  
3 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4  
4 of Division 3 of the Civil Code) and shall comply with the  
5 Department of Consumer Affairs Guidelines for Access to Public  
6 Records.

7 (j) Information provided on the Internet may not include  
8 personal information, unless otherwise provided pursuant to this  
9 chapter, including the home telephone number, date of birth, or  
10 social security number. The information may not include the  
11 licensee's address, but may include the city and county of the  
12 licensee's address of record.

13 SEC. 166. Section 4888.7 is added to the Business and  
14 Professions Code, to read:

15 4888.7. (a) Unless otherwise provided, if a licensee possesses  
16 a license or is otherwise authorized to practice in any state other  
17 than California or by any agency of the federal government and  
18 that license or authority is suspended or revoked outright, the  
19 California license of the licensee shall be suspended automatically  
20 for the duration of the suspension or revocation, unless terminated  
21 or rescinded as provided in subdivision (c). The board shall notify  
22 the licensee of the license suspension and of his or her right to  
23 have the issue of penalty heard as provided in this section.

24 (b) Upon its own motion or for good cause shown, the board  
25 may decline to impose or may set aside the suspension when it  
26 appears to be in the interest of justice to do so, with due regard  
27 to maintaining the integrity of, and confidence in, the specific  
28 healing art.

29 (c) The issue of penalty shall be heard by an administrative law  
30 judge sitting alone or with a panel of the board, in the discretion  
31 of the board. A licensee may request a hearing on the penalty and  
32 that hearing shall be held within 90 days from the date of the  
33 request. If the order suspending or revoking the license or authority  
34 to practice is overturned on appeal, any discipline ordered  
35 pursuant to this section shall automatically cease. Upon a showing  
36 to the administrative law judge or panel by the licensee that the  
37 out-of-state action is not a basis for discipline in California, the  
38 suspension shall be rescinded. If an accusation for permanent  
39 discipline is not filed within 90 days of the suspension imposed

1 *pursuant to this section, the suspension shall automatically*  
2 *terminate.*

3 *(d) The record of the proceedings that resulted in the suspension*  
4 *or revocation of the licensee's out-of-state license or authority to*  
5 *practice, including a transcript of the testimony therein, may be*  
6 *received in evidence.*

7 *(e) This section shall not apply to a licensee who maintains his*  
8 *or her primary practice in California, as evidenced by having*  
9 *maintained a practice in this state for not less than one year*  
10 *immediately preceding the date of suspension or revocation.*  
11 *Nothing in this section shall preclude a licensee's license from*  
12 *being suspended pursuant to any other provision of law.*

13 *(f) This section shall not apply to a licensee whose license has*  
14 *been surrendered, whose only discipline is a medical staff*  
15 *disciplinary action at a federal hospital and not for medical*  
16 *disciplinary cause or reason as that term is defined in Section 805,*  
17 *or whose revocation or suspension has been stayed, even if the*  
18 *licensee remains subject to terms of probation or other discipline.*

19 *(g) This section shall not apply to a suspension or revocation*  
20 *imposed by a state that is based solely on the prior discipline of*  
21 *the licensee by another state.*

22 *(h) The other provisions of this article setting forth a procedure*  
23 *for the suspension or revocation of a licensee's license or*  
24 *certificate shall not apply to summary suspensions issued pursuant*  
25 *to this section. If a summary suspension has been issued pursuant*  
26 *to this section, the licensee may request that the hearing on the*  
27 *penalty conducted pursuant to subdivision (c) be held at the same*  
28 *time as a hearing on the accusation.*

29 *(i) A board that complies with Section 2310 shall not be subject*  
30 *to the requirements of this section.*

31 *SEC. 167. Section 4964.1 is added to the Business and*  
32 *Professions Code, to read:*

33 *4964.1. (a) The board may delegate to its executive officer the*  
34 *authority to adopt a proposed default decision where an*  
35 *administrative action to revoke a license has been filed and the*  
36 *licensee has failed to file a notice of defense or to appear at the*  
37 *hearing and a proposed default decision revoking the license has*  
38 *been issued.*

39 *(b) The board may delegate to its executive officer the authority*  
40 *to adopt a proposed settlement agreement where an administrative*

1 *action to revoke a license has been filed by the board and the*  
2 *licensee has agreed to the revocation or surrender of his or her*  
3 *license.*

4 *(c) The executive officer shall, at scheduled board meetings,*  
5 *report to the board the number of proposed default decisions or*  
6 *proposed settlement agreements adopted pursuant to this section.*

7 *SEC. 168. Section 4964.2 is added to the Business and*  
8 *Professions Code, to read:*

9 *4964.2. (a) Notwithstanding Section 11415.60 of the*  
10 *Government Code, the board may enter into a settlement with a*  
11 *licensee or applicant in lieu of the issuance of an accusation or*  
12 *statement of issues against that licensee or applicant, as applicable.*

13 *(b) The settlement shall include language identifying the factual*  
14 *basis for the action being taken and a list of the statutes or*  
15 *regulations violated.*

16 *(c) A person who enters a settlement pursuant to this section is*  
17 *not precluded from filing a petition, in the timeframe permitted by*  
18 *law, to modify the terms of the settlement or petition for early*  
19 *termination of probation, if probation is part of the settlement.*

20 *(d) Any settlement against a licensee executed pursuant to this*  
21 *section shall be considered discipline and a public record and*  
22 *shall be posted on the applicable board's Internet Web site. Any*  
23 *settlement against an applicant executed pursuant to this section*  
24 *shall be considered a public record and shall be posted on the*  
25 *applicable board's Internet Web site.*

26 *(e) The executive officer shall, at scheduled board meetings,*  
27 *report to the board the number of proposed settlement agreements*  
28 *adopted pursuant to this section.*

29 *SEC. 169. Section 4964.3 is added to the Business and*  
30 *Professions Code, to read:*

31 *4964.3. (a) The license of a licensee shall be suspended*  
32 *automatically during any time that the licensee is incarcerated*  
33 *after conviction of a felony, regardless of whether the conviction*  
34 *has been appealed. The board shall, immediately upon receipt of*  
35 *the certified copy of the record of conviction, determine whether*  
36 *the license of the licensee has been automatically suspended by*  
37 *virtue of his or her incarceration, and if so, the duration of that*  
38 *suspension. The board shall notify the licensee in writing of the*  
39 *license suspension and of his or her right to elect to have the issue*  
40 *of penalty heard as provided in subdivision (d).*

1     ***(b) Upon receipt of the certified copy of the record of conviction,***  
2 *if after a hearing before an administrative law judge from the*  
3 *Office of Administrative Hearings it is determined that the felony*  
4 *for which the licensee was convicted was substantially related to*  
5 *the qualifications, functions, or duties of a licensee, the board*  
6 *shall suspend the license until the time for appeal has elapsed, if*  
7 *no appeal has been taken, or until the judgment of conviction has*  
8 *been affirmed on appeal or has otherwise become final, and until*  
9 *further order of the board.*

10    ***(c) Notwithstanding subdivision (b), a conviction of a charge***  
11 *of violating any federal statute or regulation or any statute or*  
12 *regulation of this state, regulating dangerous drugs or controlled*  
13 *substances, or a conviction of Section 187, 261, 262, or 288 of the*  
14 *Penal Code, shall be conclusively presumed to be substantially*  
15 *related to the qualifications, functions, or duties of a licensee and*  
16 *no hearing shall be held on this issue. However, upon its own*  
17 *motion or for good cause shown, the board may decline to impose*  
18 *or may set aside the suspension when it appears to be in the interest*  
19 *of justice to do so, with due regard to maintaining the integrity of,*  
20 *and confidence in, the practice regulated by the board.*

21    ***(d) (1) Discipline may be ordered against a licensee in***  
22 *accordance with the statutes and regulations of the board when*  
23 *the time for appeal has elapsed, the judgment of conviction has*  
24 *been affirmed on appeal, or an order granting probation is made*  
25 *suspending the imposition of sentence, irrespective of a subsequent*  
26 *order under Section 1203.4 of the Penal Code allowing the person*  
27 *to withdraw his or her plea of guilty and to enter a plea of not*  
28 *guilty, setting aside the verdict of guilty, or dismissing the*  
29 *accusation, complaint, information, or indictment.*

30    ***(2) The issue of penalty shall be heard by an administrative law***  
31 *judge from the Office of Administrative Hearings. The hearing*  
32 *shall not be had until the judgment of conviction has become final*  
33 *or, irrespective of a subsequent order under Section 1203.4 of the*  
34 *Penal Code, an order granting probation has been made*  
35 *suspending the imposition of sentence; except that a licensee may,*  
36 *at his or her option, elect to have the issue of penalty decided*  
37 *before those time periods have elapsed. Where the licensee so*  
38 *elects, the issue of penalty shall be heard in the manner described*  
39 *in subdivision (b) at the hearing to determine whether the*  
40 *conviction was substantially related to the qualifications, functions,*

1 or duties of a licensee. If the conviction of a licensee who has made  
2 this election is overturned on appeal, any discipline ordered  
3 pursuant to this section shall automatically cease. Nothing in this  
4 subdivision shall prohibit the board from pursuing disciplinary  
5 action based on any cause other than the overturned conviction.

6 (e) The record of the proceedings resulting in a conviction,  
7 including a transcript of the testimony in those proceedings, may  
8 be received in evidence.

9 (f) Any other provision of law setting forth a procedure for the  
10 suspension or revocation of a license issued by the board shall not  
11 apply to proceedings conducted pursuant to this section.

12 SEC. 170. Section 4964.4 is added to the Business and  
13 Professions Code, to read:

14 4964.4. (a) Except as otherwise provided, any proposed  
15 decision or decision issued in accordance with the procedures set  
16 forth in Chapter 5 (commencing with Section 11500) of Part 1 of  
17 Division 3 of Title 2 of the Government Code, that contains any  
18 finding of fact that the licensee engaged in any act of sexual contact  
19 with a patient, as defined in subdivision (c) of Section 729, or any  
20 finding that the licensee has committed a sex offense, shall contain  
21 an order revoking the license. The proposed decision shall not  
22 contain any order staying the revocation of the licensee.

23 (b) As used in this section, the term sex offense shall mean any  
24 of the following:

25 (1) Any offense for which registration is required by Section  
26 290 of the Penal Code or a finding that a person committed such  
27 an act.

28 (2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,  
29 or 647(a) or (d) of the Penal Code or a finding that a person  
30 committed such an act.

31 (3) Any attempt to commit any of the offenses specified in this  
32 section.

33 (4) Any offense committed or attempted in any other state or  
34 against the laws of the United States which, if committed or  
35 attempted in this state, would have been punishable as one or more  
36 of the offenses specified in this section.

37 SEC. 171. Section 4964.55 is added to the Business and  
38 Professions Code, to read:

39 4964.55. (a) Except as otherwise provided, with regard to an  
40 individual who is required to register as a sex offender pursuant



1 to Section 290 of the Penal Code, or the equivalent in another  
2 state or territory, under military law, or under federal law, the  
3 board shall be subject to the following requirements:

4 (1) The board shall deny an application by the individual for  
5 licensure in accordance with the procedures set forth in Chapter  
6 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
7 2 of the Government Code.

8 (2) If the individual is licensed under this chapter, the board  
9 shall promptly revoke the license of the individual in accordance  
10 with the procedures set forth in Chapter 5 (commencing with  
11 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
12 Code. The board shall not stay the revocation and place the license  
13 on probation.

14 (3) The board shall not reinstate or reissue the individual's  
15 license. The board shall not issue a stay of license denial nor place  
16 the license on probation.

17 (b) This section shall not apply to any of the following:

18 (1) An individual who has been relieved under Section 290.5 of  
19 the Penal Code of his or her duty to register as a sex offender, or  
20 whose duty to register has otherwise been formally terminated  
21 under California law or the law of the jurisdiction that requires  
22 his or her registration as a sex offender.

23 (2) An individual who is required to register as a sex offender  
24 pursuant to Section 290 of the Penal Code solely because of a  
25 misdemeanor conviction under Section 314 of the Penal Code.  
26 However, nothing in this paragraph shall prohibit the board from  
27 exercising its discretion to discipline a licensee under any other  
28 provision of state law based upon the licensee's conviction under  
29 Section 314 of the Penal Code.

30 (3) Any administrative adjudication proceeding under Chapter  
31 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
32 2 of the Government Code that is fully adjudicated prior to January  
33 1, 2008. A petition for reinstatement of a revoked or surrendered  
34 license shall be considered a new proceeding for purposes of this  
35 paragraph, and the prohibition against reinstating a license to an  
36 individual who is required to register as a sex offender shall be  
37 applicable.

38 SEC. 172. Section 4964.6 is added to the Business and  
39 Professions Code, to read:

1     4964.6. (a) Notwithstanding any other provision of law making  
2     a communication between a licensee and his or her patients a  
3     privileged communication, those provisions shall not apply to  
4     investigations or proceedings conducted by the board. Members  
5     of the board, deputies, employees, agents, the office of the Attorney  
6     General, and representatives of the board shall keep in confidence  
7     during the course of investigations the names of any patients whose  
8     records are reviewed and may not disclose or reveal those names,  
9     except as is necessary during the course of an investigation, unless  
10    and until proceedings are instituted. The authority under this  
11    subdivision to examine records of patients in the office of a licensee  
12    is limited to records of patients who have complained to the board  
13    about that licensee.

14    (b) Notwithstanding any other provision of law, the Attorney  
15    General and his or her investigative agents, and the board and its  
16    investigators and representatives may inquire into any alleged  
17    violation of the laws under the jurisdiction of the board or any  
18    other federal or state law, regulation, or rule relevant to the  
19    practice regulated by the board, whichever is applicable, and may  
20    inspect documents relevant to those investigations in accordance  
21    with the following procedures:

22    (1) Any document relevant to an investigation may be inspected,  
23    and copies may be obtained, where a patient provides written  
24    authorization.

25    (2) Any document relevant to the business operations of a  
26    licensee, and not involving medical records attributable to  
27    identifiable patients, may be inspected and copied where relevant  
28    to an investigation of a licensee.

29    (c) In all cases where documents are inspected or copies of  
30    those documents are received, their acquisition or review shall be  
31    arranged so as not to unnecessarily disrupt the medical and  
32    business operations of the licensee or of the facility where the  
33    records are kept or used.

34    (d) Where certified documents are lawfully requested from  
35    licensees in accordance with this section by the Attorney General  
36    or his or her agents or deputies, or investigators of any board, the  
37    documents shall be provided within 10 business days of receipt of  
38    the request, unless the licensee is unable to provide the certified  
39    documents within this time period for good cause, including, but  
40    not limited to, physical inability to access the records in the time

1 *allowed due to illness or travel. Failure to produce requested*  
2 *certified documents or copies thereof, after being informed of the*  
3 *required deadline, shall constitute unprofessional conduct. A board*  
4 *may use its authority to cite and fine a licensee for any violation*  
5 *of this section. This remedy is in addition to any other authority*  
6 *of the healing arts board to sanction a licensee for a delay in*  
7 *producing requested records.*

8 *(e) Searches conducted of the office or medical facility of any*  
9 *licensee shall not interfere with the recordkeeping format or*  
10 *preservation needs of any licensee necessary for the lawful care*  
11 *of patients.*

12 *(f) The licensee shall cooperate with the board in furnishing*  
13 *information or assistance as may be required, including, but not*  
14 *limited to, participation in an interview with investigators or*  
15 *representatives of the healing arts board.*

16 *(g) This section shall not apply to a licensee who does not have*  
17 *access to, and control over, certified medical records or other*  
18 *types of documents that belong to or are controlled by a health*  
19 *facility or clinic.*

20 *SEC. 173. Section 4964.7 is added to the Business and*  
21 *Professions Code, to read:*

22 *4964.7. (a) (1) Notwithstanding any other provision of law,*  
23 *a licensee who fails or refuses to comply with a request for the*  
24 *certified medical records of a patient that is accompanied by that*  
25 *patient's written authorization for release of records to a board*  
26 *together with a notice citing this section and describing the*  
27 *penalties for failure to comply with this section shall be required*  
28 *to pay to the board a civil penalty of up to one thousand dollars*  
29 *(\$1,000) per day for each day that the documents have not been*  
30 *produced after the 15th day, up to ten thousand dollars (\$10,000),*  
31 *unless the licensee is unable to provide the documents within this*  
32 *time period for good cause.*

33 *(2) A health care facility shall comply with a request for the*  
34 *certified medical records of a patient that is accompanied by that*  
35 *patient's written authorization for release of records to a board*  
36 *together with a notice citing this section and describing the*  
37 *penalties for failure to comply with this section. Failure to provide*  
38 *the authorizing patient's certified medical records to the board*  
39 *within 15 days of receiving the request, authorization, and notice*  
40 *shall subject the health care facility to a civil penalty, payable to*

1 the healing arts board, of up to one thousand dollars (\$1,000) per  
2 day for each day that the documents have not been produced after  
3 the 15th day, up to ten thousand dollars (\$10,000), unless the  
4 health care facility is unable to provide the documents within this  
5 time period for good cause. This paragraph shall not require health  
6 care facilities to assist the board in obtaining the patient's  
7 authorization. The board shall pay the reasonable costs of copying  
8 the certified medical records, but shall not be required to make  
9 that payment prior to the production of the medical records.

10 (b) (1) A licensee who fails or refuses to comply with a court  
11 order, issued in the enforcement of a subpoena, mandating the  
12 release of records to the board, shall pay to the healing arts board  
13 a civil penalty of up to one thousand dollars (\$1,000) per day for  
14 each day that the documents have not been produced after the date  
15 by which the court order requires the documents to be produced,  
16 up to ten thousand dollars (\$10,000), unless it is determined that  
17 the order is unlawful or invalid. Any statute of limitations  
18 applicable to the filing of an accusation by the healing arts board  
19 shall be tolled during the period the licensee is out of compliance  
20 with the court order and during any related appeals.

21 (2) Any licensee who fails or refuses to comply with a court  
22 order, issued in the enforcement of a subpoena, mandating the  
23 release of records to a board is guilty of a misdemeanor punishable  
24 by a fine payable to the board not to exceed five thousand dollars  
25 (\$5,000). The fine shall be added to the licensee's renewal fee if  
26 it is not paid by the next succeeding renewal date. Any statute of  
27 limitations applicable to the filing of an accusation by the board  
28 shall be tolled during the period the licensee is out of compliance  
29 with the court order and during any related appeals.

30 (3) A health care facility that fails or refuses to comply with a  
31 court order, issued in the enforcement of a subpoena, mandating  
32 the release of patient records to the board, that is accompanied  
33 by a notice citing this section and describing the penalties for  
34 failure to comply with this section, shall pay to the board a civil  
35 penalty of up to one thousand dollars (\$1,000) per day for each  
36 day that the documents have not been produced, up to ten thousand  
37 dollars (\$10,000), after the date by which the court order requires  
38 the documents to be produced, unless it is determined that the  
39 order is unlawful or invalid. Any statute of limitations applicable  
40 to the filing of an accusation by the board against a licensee shall

1 *be tolled during the period the health care facility is out of*  
2 *compliance with the court order and during any related appeals.*

3 *(4) Any health care facility that fails or refuses to comply with*  
4 *a court order, issued in the enforcement of a subpoena, mandating*  
5 *the release of records to the board is guilty of a misdemeanor*  
6 *punishable by a fine payable to the board not to exceed five*  
7 *thousand dollars (\$5,000). Any statute of limitations applicable*  
8 *to the filing of an accusation by the board against a licensee shall*  
9 *be tolled during the period the health care facility is out of*  
10 *compliance with the court order and during any related appeals.*

11 *(c) Multiple acts by a licensee in violation of subdivision (b)*  
12 *shall be punishable by a fine not to exceed five thousand dollars*  
13 *(\$5,000) or by imprisonment in a county jail not exceeding six*  
14 *months, or by both that fine and imprisonment. Multiple acts by*  
15 *a health care facility in violation of subdivision (b) shall be*  
16 *punishable by a fine not to exceed five thousand dollars (\$5,000),*  
17 *shall be reported to the State Department of Public Health, and*  
18 *shall be considered as grounds for disciplinary action with respect*  
19 *to licensure, including suspension or revocation of the license or*  
20 *certificate.*

21 *(d) A failure or refusal of a licensee to comply with a court*  
22 *order, issued in the enforcement of a subpoena, mandating the*  
23 *release of records to the board constitutes unprofessional conduct*  
24 *and is grounds for suspension or revocation of his or her license.*

25 *(e) Imposition of the civil penalties authorized by this section*  
26 *shall be in accordance with the Administrative Procedure Act*  
27 *(Chapter 5 (commencing with Section 11500) of Division 3 of Title*  
28 *2 of the Government Code). Any civil penalties paid to, or received*  
29 *by, the board pursuant to this section shall be deposited into the*  
30 *fund administered by the board.*

31 *(f) For purposes of this section, “certified medical records”*  
32 *means a copy of the patient’s medical records authenticated by*  
33 *the licensee or health care facility, as appropriate, on a form*  
34 *prescribed by the licensee’s board.*

35 *(g) For purposes of this section, a “health care facility” means*  
36 *a clinic or health facility licensed or exempt from licensure*  
37 *pursuant to Division 2 (commencing with Section 1200) of the*  
38 *Health and Safety Code.*

39 *(h) If a board complies with Section 1684.1, 2225.5, or 2969,*  
40 *that board shall not be subject to the requirements of this section.*

1     (i) *This section shall not apply to a licensee who does not have*  
2 *access to, or control over, certified medical records or other types*  
3 *of documents that belong to or are controlled by a health facility*  
4 *or clinic.*

5     SEC. 174. *Section 4964.8 is added to the Business and*  
6 *Professions Code, to read:*

7     4964.8. (a) *Notwithstanding any other provision of law, any*  
8 *employer of a licensee shall report to the board the suspension or*  
9 *termination for cause, or any resignation in lieu of suspension or*  
10 *termination for cause, of any licensee in its employ within 15*  
11 *business days. The report shall not be made until after the*  
12 *conclusion of the review process specified in Section 52.3 of Title*  
13 *2 of the California Code of Regulations and Skelly v. State*  
14 *Personnel Bd. (1975) 15 Cal.3d 194, for public employees. This*  
15 *required reporting shall not constitute a waiver of confidentiality*  
16 *of medical records. The information reported or disclosed shall*  
17 *be kept confidential except as provided in subdivision (c) of Section*  
18 *800 and shall not be subject to discovery in civil cases.*

19     (b) *The information to be reported by the employer shall include*  
20 *the name and license number of the licensee involved, a*  
21 *description of the facts and circumstances of the suspension or*  
22 *termination for cause, any resignation in lieu of suspension or*  
23 *termination for cause, and any other relevant information deemed*  
24 *appropriate by the employer.*

25     (c) *The board shall be entitled to inspect and copy the following*  
26 *documents in the record for any suspension or termination for*  
27 *cause, or any resignation in lieu of suspension or termination for*  
28 *cause, resulting in action that is required to be reported pursuant*  
29 *to this section:*

30     (1) *Any statement for suspension or termination of the licensee.*

31     (2) *Any document or exhibits relevant to the suspension or*  
32 *termination.*

33     (d) *If, during the investigation by the board of the cause for the*  
34 *termination or suspension or resignation of the licensee, it is found*  
35 *that there has been a violation of existing state or federal law, the*  
36 *board shall report the violation to the appropriate agency.*

37     (e) *For purposes of this section, “suspension or termination for*  
38 *cause” or “resignation in lieu of suspension or termination for*  
39 *cause” is defined as resignation, suspension, or termination from*  
40 *employment for any of the following reasons:*

1     (1) *Use of controlled substances or alcohol to the extent that it*  
2 *impairs the licensee's ability to safely practice.*

3     (2) *Unlawful sale of a controlled substance or other prescription*  
4 *items.*

5     (3) *Patient or client abuse, neglect, physical harm, or sexual*  
6 *contact with a patient or client.*

7     (4) *Gross negligence or incompetence.*

8     (5) *Theft from a patient or client, any other employee, or the*  
9 *employer.*

10    (f) *As used in this section, the following definitions apply:*

11    (1) *"Gross negligence" means a substantial departure from the*  
12 *standard of care, which, under similar circumstances, would have*  
13 *ordinarily been exercised by a competent licensee, and which has*  
14 *or could have resulted in harm to the consumer. An exercise of so*  
15 *slight a degree of care as to justify the belief that there was a*  
16 *conscious disregard or indifference for the health, safety, or*  
17 *welfare of the consumer shall be considered a substantial departure*  
18 *from the standard of care.*

19    (2) *"Incompetence" means the lack of possession of, and the*  
20 *failure to exercise that degree of learning, skill, care, and*  
21 *experience ordinarily possessed by, a responsible licensee.*

22    (3) *"Willful" means a knowing and intentional violation of a*  
23 *known legal duty.*

24    (g) (1) *Willful failure of an employer to make a report required*  
25 *by this section is punishable by an administrative fine not to exceed*  
26 *one hundred thousand dollars (\$100,000) per violation.*

27    (2) *Any failure of an employer, other than willful failure, to*  
28 *make a report required by this section is punishable by an*  
29 *administrative fine not to exceed fifty thousand dollars (\$50,000).*

30    (h) *The board shall investigate the circumstances underlying*  
31 *any report received pursuant to this section within 30 days to*  
32 *determine if an interim suspension order or temporary restraining*  
33 *order should be issued. The board shall otherwise provide timely*  
34 *disposition of the reports received pursuant to this section.*

35    (i) *The board shall send to the licentiate a copy of the report*  
36 *along with the reasons for the filing of the report and notice*  
37 *advising the licentiate of his or her right to submit additional*  
38 *statements or other information to the board.*

1     (j) Pursuant to Section 43.8 of the Civil Code, no person shall  
2 incur any civil penalty as a result of making any report required  
3 by this article.

4     (k) No report is required under this section where a report of  
5 the action taken is already required under Section 805.

6     SEC. 175. Section 4964.9 is added to the Business and  
7 Professions Code, to read:

8     4964.9. Unless otherwise provided, on or after July 1, 2013,  
9 the board shall post on its Internet Web site the following  
10 information, including the name and license number, in its  
11 possession, custody, or control regarding every licensee for which  
12 the board licenses:

13     (a) With regard to the status of every license, whether or not  
14 the licensee or former licensee is in good standing, subject to a  
15 temporary restraining order, subject to an interim suspension  
16 order, subject to a restriction or cease practice ordered pursuant  
17 to Section 23 of the Penal Code, or subject to any of the  
18 enforcement actions described in Section 803.1.

19     (b) With regard to prior discipline of a licensee, whether or not  
20 the licensee or former licensee has been subject to discipline by  
21 the board or by the board of another state or jurisdiction, as  
22 described in Section 803.1.

23     (c) Any felony conviction of a licensee reported to the board.

24     (d) All current accusations filed by the Attorney General,  
25 including those accusations that are on appeal. For purposes of  
26 this paragraph, "current accusation" means an accusation that  
27 has not been dismissed, withdrawn, or settled, and has not been  
28 finally decided upon by an administrative law judge and the board  
29 unless an appeal of that decision is pending.

30     (e) Any malpractice judgment or arbitration award imposed  
31 against a licensee and reported to the board.

32     (f) Any hospital disciplinary action imposed against a licensee  
33 that resulted in the termination or revocation of a licensee's  
34 hospital staff privileges for a medical disciplinary cause or reason  
35 pursuant to Section 4964.7 or 805.

36     (g) Any misdemeanor conviction of a licensee that results in a  
37 disciplinary action or an accusation that is not subsequently  
38 withdrawn or dismissed.

39     (h) Appropriate disclaimers and explanatory statements to  
40 accompany the above information, including an explanation of



1 *what types of information are not disclosed. These disclaimers*  
2 *and statements shall be developed by the board and shall be*  
3 *adopted by regulation.*

4 *(i) The information provided on the Internet shall be in*  
5 *accordance with the California Public Records Act (Chapter 3.5*  
6 *(commencing with Section 6250) of Division 7 of Title 1 of the*  
7 *Government Code) and the Information Practices Act of 1977*  
8 *(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4*  
9 *of Division 3 of the Civil Code) and shall comply with the*  
10 *Department of Consumer Affairs Guidelines for Access to Public*  
11 *Records.*

12 *(j) Information provided on the Internet may not include*  
13 *personal information, unless otherwise provided pursuant to this*  
14 *chapter, including the home telephone number, date of birth, or*  
15 *social security number. The information may not include the*  
16 *licensee's address, but may include the city and county of the*  
17 *licensee's address of record.*

18 *SEC. 176. Section 4964.10 is added to the Business and*  
19 *Professions Code, to read:*

20 *4964.10. (a) Unless otherwise provided, if a licensee possesses*  
21 *a license or is otherwise authorized to practice in any state other*  
22 *than California or by any agency of the federal government and*  
23 *that license or authority is suspended or revoked outright, the*  
24 *California license of the licensee shall be suspended automatically*  
25 *for the duration of the suspension or revocation, unless terminated*  
26 *or rescinded as provided in subdivision (c). The board shall notify*  
27 *the licensee of the license suspension and of his or her right to*  
28 *have the issue of penalty heard as provided in this section.*

29 *(b) Upon its own motion or for good cause shown, the board*  
30 *may decline to impose or may set aside the suspension when it*  
31 *appears to be in the interest of justice to do so, with due regard*  
32 *to maintaining the integrity of, and confidence in, the specific*  
33 *healing art.*

34 *(c) The issue of penalty shall be heard by an administrative law*  
35 *judge sitting alone or with a panel of the board, in the discretion*  
36 *of the board. A licensee may request a hearing on the penalty and*  
37 *that hearing shall be held within 90 days from the date of the*  
38 *request. If the order suspending or revoking the license or authority*  
39 *to practice is overturned on appeal, any discipline ordered*  
40 *pursuant to this section shall automatically cease. Upon a showing*

1 to the administrative law judge or panel by the licensee that the  
2 out-of-state action is not a basis for discipline in California, the  
3 suspension shall be rescinded. If an accusation for permanent  
4 discipline is not filed within 90 days of the suspension imposed  
5 pursuant to this section, the suspension shall automatically  
6 terminate.

7 (d) The record of the proceedings that resulted in the suspension  
8 or revocation of the licensee's out-of-state license or authority to  
9 practice, including a transcript of the testimony therein, may be  
10 received in evidence.

11 (e) This section shall not apply to a licensee who maintains his  
12 or her primary practice in California, as evidenced by having  
13 maintained a practice in this state for not less than one year  
14 immediately preceding the date of suspension or revocation.  
15 Nothing in this section shall preclude a licensee's license from  
16 being suspended pursuant to any other provision of law.

17 (f) This section shall not apply to a licensee whose license has  
18 been surrendered, whose only discipline is a medical staff  
19 disciplinary action at a federal hospital and not for medical  
20 disciplinary cause or reason as that term is defined in Section 805,  
21 or whose revocation or suspension has been stayed, even if the  
22 licensee remains subject to terms of probation or other discipline.

23 (g) This section shall not apply to a suspension or revocation  
24 imposed by a state that is based solely on the prior discipline of  
25 the licensee by another state.

26 (h) The other provisions of this article setting forth a procedure  
27 for the suspension or revocation of a licensee's license or  
28 certificate shall not apply to summary suspensions issued pursuant  
29 to this section. If a summary suspension has been issued pursuant  
30 to this section, the licensee may request that the hearing on the  
31 penalty conducted pursuant to subdivision (c) be held at the same  
32 time as a hearing on the accusation.

33 (i) A board that complies with Section 2310 shall not be subject  
34 to the requirements of this section.

35 SEC. 177. Section 4982.26 of the Business and Professions  
36 Code is amended to read:

37 4982.26. (a) The board shall revoke any license issued under  
38 this chapter upon a decision made in accordance with the  
39 procedures set forth in Chapter 5 (commencing with Section 11500)  
40 of Part 1 of Division 3 of Title 2 of the Government Code, that

contains any finding of fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 729, when that act is with a patient, or with a former patient when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.

*(b) Except as otherwise provided, any proposed decision or decision issued under this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee has committed a sex offense, shall contain an order revoking the license. The proposed decision or decision shall not contain any order staying the revocation of the licensee.*

*(c) As used in this section, the term sex offense shall mean any of the following:*

*(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.*

*(2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1, or 647(a) or (d) of the Penal Code or a finding that a person committed such an act.*

*(3) Any attempt to commit any of the offenses specified in this section.*

*(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.*

SEC. 178. Section 4990.44 is added to the Business and Professions Code, to read:

4990.44. (a) The board may delegate to its executive officer the authority to adopt a proposed default decision where an administrative action to revoke a license has been filed and the licensee has failed to file a notice of defense or to appear at the hearing and a proposed default decision revoking the license has been issued.

(b) The board may delegate to its executive officer the authority to adopt a proposed settlement agreement where an administrative action to revoke a license has been filed by the board and the

1 licensee has agreed to the revocation or surrender of his or her  
2 license.

3 (c) The executive officer shall, at scheduled board meetings,  
4 report to the board the number of proposed default decisions or  
5 proposed settlement agreements adopted pursuant to this section.

6 SEC. 179. Section 4990.45 is added to the Business and  
7 Professions Code, to read:

8 4990.45. (a) Notwithstanding Section 11415.60 of the  
9 Government Code, the board may enter into a settlement with a  
10 licensee or applicant in lieu of the issuance of an accusation or  
11 statement of issues against that licensee or applicant, as applicable.

12 (b) The settlement shall include language identifying the factual  
13 basis for the action being taken and a list of the statutes or  
14 regulations violated.

15 (c) A person who enters a settlement pursuant to this section is  
16 not precluded from filing a petition, in the timeframe permitted by  
17 law, to modify the terms of the settlement or petition for early  
18 termination of probation, if probation is part of the settlement.

19 (d) Any settlement against a licensee executed pursuant to this  
20 section shall be considered discipline and a public record and  
21 shall be posted on the applicable board's Internet Web site. Any  
22 settlement against an applicant executed pursuant to this section  
23 shall be considered a public record and shall be posted on the  
24 applicable board's Internet Web site.

25 (e) The executive officer shall, at scheduled board meetings,  
26 report to the board the number of proposed settlement agreements  
27 adopted pursuant to this section.

28 SEC. 180. Section 4990.46 is added to the Business and  
29 Professions Code, to read:

30 4990.46. (a) The license of a licensee shall be suspended  
31 automatically during any time that the licensee is incarcerated  
32 after conviction of a felony, regardless of whether the conviction  
33 has been appealed. The board shall, immediately upon receipt of  
34 the certified copy of the record of conviction, determine whether  
35 the license of the licensee has been automatically suspended by  
36 virtue of his or her incarceration, and if so, the duration of that  
37 suspension. The board shall notify the licensee in writing of the  
38 license suspension and of his or her right to elect to have the issue  
39 of penalty heard as provided in subdivision (d).

(b) Upon receipt of the certified copy of the record of conviction, if after a hearing before an administrative law judge from the Office of Administrative Hearings it is determined that the felony for which the licensee was convicted was substantially related to the qualifications, functions, or duties of a licensee, the board shall suspend the license until the time for appeal has elapsed, if no appeal has been taken, or until the judgment of conviction has been affirmed on appeal or has otherwise become final, and until further order of the board.

(c) Notwithstanding subdivision (b), a conviction of a charge of violating any federal statute or regulation or any statute or regulation of this state, regulating dangerous drugs or controlled substances, or a conviction of Section 187, 261, 262, or 288 of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a licensee and no hearing shall be held on this issue. However, upon its own motion or for good cause shown, the board may decline to impose or may set aside the suspension when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of, and confidence in, the practice regulated by the board.

(d) (1) Discipline may be ordered against a licensee in accordance with the statutes and regulations of the board when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge from the Office of Administrative Hearings. The hearing shall not be had until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence; except that a licensee may, at his or her option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee so elects, the issue of penalty shall be heard in the manner described in subdivision (b) at the hearing to determine whether the conviction was substantially related to the qualifications, functions,

1 or duties of a licensee. If the conviction of a licensee who has made  
2 this election is overturned on appeal, any discipline ordered  
3 pursuant to this section shall automatically cease. Nothing in this  
4 subdivision shall prohibit the board from pursuing disciplinary  
5 action based on any cause other than the overturned conviction.

6 (e) The record of the proceedings resulting in a conviction,  
7 including a transcript of the testimony in those proceedings, may  
8 be received in evidence.

9 (f) Any other provision of law setting forth a procedure for the  
10 suspension or revocation of a license issued by the board shall not  
11 apply to proceedings conducted pursuant to this section.

12 SEC. 181. Section 4990.47 is added to the Business and  
13 Professions Code, to read:

14 4990.47. (a) Except as otherwise provided, any proposed  
15 decision or decision issued in accordance with the procedures set  
16 forth in Chapter 5 (commencing with Section 11500) of Part 1 of  
17 Division 3 of Title 2 of the Government Code, that contains any  
18 finding of fact that the licensee engaged in any act of sexual contact  
19 with a patient, as defined in subdivision (c) of Section 729, or any  
20 finding that the licensee has committed a sex offense, shall contain  
21 an order revoking the license. The proposed decision shall not  
22 contain any order staying the revocation of the licensee.

23 (b) As used in this section, the term sex offense shall mean any  
24 of the following:

25 (1) Any offense for which registration is required by Section  
26 290 of the Penal Code or a finding that a person committed such  
27 an act.

28 (2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1,  
29 or 647(a) or (d) of the Penal Code or a finding that a person  
30 committed such an act.

31 (3) Any attempt to commit any of the offenses specified in this  
32 section.

33 (4) Any offense committed or attempted in any other state or  
34 against the laws of the United States which, if committed or  
35 attempted in this state, would have been punishable as one or more  
36 of the offenses specified in this section.

37 SEC. 182. Section 4990.48 is added to the Business and  
38 Professions Code, to read:

39 4990.48. (a) Except as otherwise provided, with regard to an  
40 individual who is required to register as a sex offender pursuant

1 to Section 290 of the Penal Code, or the equivalent in another  
2 state or territory, under military law, or under federal law, the  
3 board shall be subject to the following requirements:

4 (1) The board shall deny an application by the individual for  
5 licensure in accordance with the procedures set forth in Chapter  
6 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
7 2 of the Government Code.

8 (2) If the individual is licensed under this chapter, the board  
9 shall promptly revoke the license of the individual in accordance  
10 with the procedures set forth in Chapter 5 (commencing with  
11 Section 11500) of Part 1 of Division 3 of Title 2 of the Government  
12 Code. The board shall not stay the revocation and place the license  
13 on probation.

14 (3) The board shall not reinstate or reissue the individual's  
15 license. The board shall not issue a stay of license denial nor place  
16 the license on probation.

17 (b) This section shall not apply to any of the following:

18 (1) An individual who has been relieved under Section 290.5 of  
19 the Penal Code of his or her duty to register as a sex offender, or  
20 whose duty to register has otherwise been formally terminated  
21 under California law or the law of the jurisdiction that requires  
22 his or her registration as a sex offender.

23 (2) An individual who is required to register as a sex offender  
24 pursuant to Section 290 of the Penal Code solely because of a  
25 misdemeanor conviction under Section 314 of the Penal Code.  
26 However, nothing in this paragraph shall prohibit the board from  
27 exercising its discretion to discipline a licensee under any other  
28 provision of state law based upon the licensee's conviction under  
29 Section 314 of the Penal Code.

30 (3) Any administrative adjudication proceeding under Chapter  
31 5 (commencing with Section 11500) of Part 1 of Division 3 of Title  
32 2 of the Government Code that is fully adjudicated prior to January  
33 1, 2008. A petition for reinstatement of a revoked or surrendered  
34 license shall be considered a new proceeding for purposes of this  
35 paragraph, and the prohibition against reinstating a license to an  
36 individual who is required to register as a sex offender shall be  
37 applicable.

38 SEC. 183. Section 4990.49 is added to the Business and  
39 Professions Code, to read:

1     4990.49. (a) Notwithstanding any other provision of law  
2     making a communication between a licensee and his or her patients  
3     a privileged communication, those provisions shall not apply to  
4     investigations or proceedings conducted by the board. Members  
5     of the board, deputies, employees, agents, the office of the Attorney  
6     General, and representatives of the board shall keep in confidence  
7     during the course of investigations the names of any patients whose  
8     records are reviewed and may not disclose or reveal those names,  
9     except as is necessary during the course of an investigation, unless  
10    and until proceedings are instituted. The authority under this  
11    subdivision to examine records of patients in the office of a licensee  
12    is limited to records of patients who have complained to the board  
13    about that licensee.

14    (b) Notwithstanding any other provision of law, the Attorney  
15    General and his or her investigative agents, and the board and its  
16    investigators and representatives may inquire into any alleged  
17    violation of the laws under the jurisdiction of the board or any  
18    other federal or state law, regulation, or rule relevant to the  
19    practice regulated by the board, whichever is applicable, and may  
20    inspect documents relevant to those investigations in accordance  
21    with the following procedures:

22    (1) Any document relevant to an investigation may be inspected,  
23    and copies may be obtained, where a patient provides written  
24    authorization.

25    (2) Any document relevant to the business operations of a  
26    licensee, and not involving medical records attributable to  
27    identifiable patients, may be inspected and copied where relevant  
28    to an investigation of a licensee.

29    (c) In all cases where documents are inspected or copies of  
30    those documents are received, their acquisition or review shall be  
31    arranged so as not to unnecessarily disrupt the medical and  
32    business operations of the licensee or of the facility where the  
33    records are kept or used.

34    (d) Where certified documents are lawfully requested from  
35    licensees in accordance with this section by the Attorney General  
36    or his or her agents or deputies, or investigators of any board, the  
37    documents shall be provided within 10 business days of receipt of  
38    the request, unless the licensee is unable to provide the certified  
39    documents within this time period for good cause, including, but  
40    not limited to, physical inability to access the records in the time



1 *allowed due to illness or travel. Failure to produce requested*  
2 *certified documents or copies thereof, after being informed of the*  
3 *required deadline, shall constitute unprofessional conduct. A board*  
4 *may use its authority to cite and fine a licensee for any violation*  
5 *of this section. This remedy is in addition to any other authority*  
6 *of the board to sanction a licensee for a delay in producing*  
7 *requested records.*

8 *(e) Searches conducted of the office or medical facility of any*  
9 *licensee shall not interfere with the recordkeeping format or*  
10 *preservation needs of any licensee necessary for the lawful care*  
11 *of patients.*

12 *(f) The licensee shall cooperate with the board in furnishing*  
13 *information or assistance as may be required, including, but not*  
14 *limited to, participation in an interview with investigators or*  
15 *representatives of the board.*

16 *(g) This section shall not apply to a licensee who does not have*  
17 *access to, and control over, certified medical records or other*  
18 *types of documents that belong to or are controlled by a health*  
19 *facility or clinic.*

20 *SEC. 184. Section 4990.50 is added to the Business and*  
21 *Professions Code, to read:*

22 *4990.50. (a) (1) Notwithstanding any other provision of law,*  
23 *a licensee who fails or refuses to comply with a request for the*  
24 *certified medical records of a patient that is accompanied by that*  
25 *patient's written authorization for release of records to a board*  
26 *together with a notice citing this section and describing the*  
27 *penalties for failure to comply with this section shall be required*  
28 *to pay to the board a civil penalty of up to one thousand dollars*  
29 *(\$1,000) per day for each day that the documents have not been*  
30 *produced after the 15th day, up to ten thousand dollars (\$10,000),*  
31 *unless the licensee is unable to provide the documents within this*  
32 *time period for good cause.*

33 *(2) A health care facility shall comply with a request for the*  
34 *certified medical records of a patient that is accompanied by that*  
35 *patient's written authorization for release of records to a board*  
36 *together with a notice citing this section and describing the*  
37 *penalties for failure to comply with this section. Failure to provide*  
38 *the authorizing patient's certified medical records to the board*  
39 *within 15 days of receiving the request, authorization, and notice*  
40 *shall subject the health care facility to a civil penalty, payable to*

1 the board, of up to one thousand dollars (\$1,000) per day for each  
2 day that the documents have not been produced after the 15th day,  
3 up to ten thousand dollars (\$10,000), unless the health care facility  
4 is unable to provide the documents within this time period for good  
5 cause. This paragraph shall not require health care facilities to  
6 assist the board in obtaining the patient's authorization. The board  
7 shall pay the reasonable costs of copying the certified medical  
8 records, but shall not be required to make that payment prior to  
9 the production of the medical records.

10 (b) (1) A licensee who fails or refuses to comply with a court  
11 order, issued in the enforcement of a subpoena, mandating the  
12 release of records to the board, shall pay to the board a civil  
13 penalty of up to one thousand dollars (\$1,000) per day for each  
14 day that the documents have not been produced after the date by  
15 which the court order requires the documents to be produced, up  
16 to ten thousand dollars (\$10,000), unless it is determined that the  
17 order is unlawful or invalid. Any statute of limitations applicable  
18 to the filing of an accusation by the board shall be tolled during  
19 the period the licensee is out of compliance with the court order  
20 and during any related appeals.

21 (2) Any licensee who fails or refuses to comply with a court  
22 order, issued in the enforcement of a subpoena, mandating the  
23 release of records to a board is guilty of a misdemeanor punishable  
24 by a fine payable to the board not to exceed five thousand dollars  
25 (\$5,000). The fine shall be added to the licensee's renewal fee if  
26 it is not paid by the next succeeding renewal date. Any statute of  
27 limitations applicable to the filing of an accusation by the board  
28 shall be tolled during the period the licensee is out of compliance  
29 with the court order and during any related appeals.

30 (3) A health care facility that fails or refuses to comply with a  
31 court order, issued in the enforcement of a subpoena, mandating  
32 the release of patient records to the board, that is accompanied  
33 by a notice citing this section and describing the penalties for  
34 failure to comply with this section, shall pay to the board a civil  
35 penalty of up to one thousand dollars (\$1,000) per day for each  
36 day that the documents have not been produced, up to ten thousand  
37 dollars (\$10,000), after the date by which the court order requires  
38 the documents to be produced, unless it is determined that the  
39 order is unlawful or invalid. Any statute of limitations applicable  
40 to the filing of an accusation by the board against a licensee shall

1 *be tolled during the period the health care facility is out of*  
2 *compliance with the court order and during any related appeals.*

3 *(4) Any health care facility that fails or refuses to comply with*  
4 *a court order, issued in the enforcement of a subpoena, mandating*  
5 *the release of records to the board is guilty of a misdemeanor*  
6 *punishable by a fine payable to the board not to exceed five*  
7 *thousand dollars (\$5,000). Any statute of limitations applicable*  
8 *to the filing of an accusation by the healing arts board against a*  
9 *licensee shall be tolled during the period the health care facility*  
10 *is out of compliance with the court order and during any related*  
11 *appeals.*

12 *(c) Multiple acts by a licensee in violation of subdivision (b)*  
13 *shall be punishable by a fine not to exceed five thousand dollars*  
14 *(\$5,000) or by imprisonment in a county jail not exceeding six*  
15 *months, or by both that fine and imprisonment. Multiple acts by*  
16 *a health care facility in violation of subdivision (b) shall be*  
17 *punishable by a fine not to exceed five thousand dollars (\$5,000),*  
18 *shall be reported to the State Department of Public Health, and*  
19 *shall be considered as grounds for disciplinary action with respect*  
20 *to licensure, including suspension or revocation of the license or*  
21 *certificate.*

22 *(d) A failure or refusal of a licensee to comply with a court*  
23 *order, issued in the enforcement of a subpoena, mandating the*  
24 *release of records to the healing arts board constitutes*  
25 *unprofessional conduct and is grounds for suspension or revocation*  
26 *of his or her license.*

27 *(e) Imposition of the civil penalties authorized by this section*  
28 *shall be in accordance with the Administrative Procedure Act*  
29 *(Chapter 5 (commencing with Section 11500) of Division 3 of Title*  
30 *2 of the Government Code). Any civil penalties paid to, or received*  
31 *by, the board pursuant to this section shall be deposited into the*  
32 *fund administered by the board.*

33 *(f) For purposes of this section, “certified medical records”*  
34 *means a copy of the patient’s medical records authenticated by*  
35 *the licensee or health care facility, as appropriate, on a form*  
36 *prescribed by the licensee’s board.*

37 *(g) For purposes of this section, a “health care facility” means*  
38 *a clinic or health facility licensed or exempt from licensure*  
39 *pursuant to Division 2 (commencing with Section 1200) of the*  
40 *Health and Safety Code.*

1     (h) If a board complies with Section 1684.1, 2225.5, or 2969,  
2     that board shall not be subject to the requirements of this section.

3     (i) This section shall not apply to a licensee who does not have  
4     access to, or control over, certified medical records or other types  
5     of documents that belong to or are controlled by a health facility  
6     or clinic.

7     SEC. 185. Section 4990.51 is added to the Business and  
8     Professions Code, to read:

9     4990.51. (a) Notwithstanding any other provision of law, any  
10    employer of a licensee shall report to the board the suspension or  
11    termination for cause, or any resignation in lieu of suspension or  
12    termination for cause, of any licensee in its employ within 15  
13    business days. The report shall not be made until after the  
14    conclusion of the review process specified in Section 52.3 of Title  
15    2 of the California Code of Regulations and *Skelly v. State*  
16    *Personnel Bd.* (1975) 15 Cal.3d 194, for public employees. This  
17    required reporting shall not constitute a waiver of confidentiality  
18    of medical records. The information reported or disclosed shall  
19    be kept confidential except as provided in subdivision (c) of Section  
20    800 and shall not be subject to discovery in civil cases.

21    (b) The information to be reported by the employer shall include  
22    the name and license number of the licensee involved, a  
23    description of the facts and circumstances of the suspension or  
24    termination for cause, any resignation in lieu of suspension or  
25    termination for cause, and any other relevant information deemed  
26    appropriate by the employer.

27    (c) The board shall be entitled to inspect and copy the following  
28    documents in the record for any suspension or termination for  
29    cause, or any resignation in lieu of suspension or termination for  
30    cause, resulting in action that is required to be reported pursuant  
31    to this section:

32    (1) Any statement for suspension or termination of the licensee.

33    (2) Any document or exhibits relevant to the suspension or  
34    termination.

35    (d) If, during the investigation by the board of the cause for the  
36    termination or suspension or resignation of the licensee, it is found  
37    that there has been a violation of existing state or federal law, the  
38    board shall report the violation to the appropriate agency.

39    (e) For purposes of this section, “suspension or termination for  
40    cause” or “resignation in lieu of suspension or termination for

1 *cause” is defined as resignation, suspension, or termination from*  
2 *employment for any of the following reasons:*

3 *(1) Use of controlled substances or alcohol to the extent that it*  
4 *impairs the licensee’s ability to safely practice.*

5 *(2) Unlawful sale of a controlled substance or other prescription*  
6 *items.*

7 *(3) Patient or client abuse, neglect, physical harm, or sexual*  
8 *contact with a patient or client.*

9 *(4) Gross negligence or incompetence.*

10 *(5) Theft from a patient or client, any other employee, or the*  
11 *employer.*

12 *(f) As used in this section, the following definitions apply:*

13 *(1) “Gross negligence” means a substantial departure from the*  
14 *standard of care, which, under similar circumstances, would have*  
15 *ordinarily been exercised by a competent licensee, and which has*  
16 *or could have resulted in harm to the consumer. An exercise of so*  
17 *slight a degree of care as to justify the belief that there was a*  
18 *conscious disregard or indifference for the health, safety, or*  
19 *welfare of the consumer shall be considered a substantial departure*  
20 *from the standard of care.*

21 *(2) “Incompetence” means the lack of possession of, and the*  
22 *failure to exercise that degree of learning, skill, care, and*  
23 *experience ordinarily possessed by, a responsible licensee.*

24 *(3) “Willful” means a knowing and intentional violation of a*  
25 *known legal duty.*

26 *(g) (1) Willful failure of an employer to make a report required*  
27 *by this section is punishable by an administrative fine not to exceed*  
28 *one hundred thousand dollars (\$100,000) per violation.*

29 *(2) Any failure of an employer, other than willful failure, to*  
30 *make a report required by this section is punishable by an*  
31 *administrative fine not to exceed fifty thousand dollars (\$50,000).*

32 *(h) The board shall investigate the circumstances underlying*  
33 *any report received pursuant to this section within 30 days to*  
34 *determine if an interim suspension order or temporary restraining*  
35 *order should be issued. The board shall otherwise provide timely*  
36 *disposition of the reports received pursuant to this section.*

37 *(i) The board shall send to the licentiate a copy of the report*  
38 *along with the reasons for the filing of the report and notice*  
39 *advising the licentiate of his or her right to submit additional*  
40 *statements or other information to the board.*

1     (j) Pursuant to Section 43.8 of the Civil Code, no person shall  
2 incur any civil penalty as a result of making any report required  
3 by this article.

4     (k) No report is required under this section where a report of  
5 the action taken is already required under Section 805.

6     SEC. 186. Section 4990.52 is added to the Business and  
7 Professions Code, to read:

8     4990.52. Unless otherwise provided, on or after July 1, 2013,  
9 the board shall post on its Internet Web site the following  
10 information, including the name and license number, in its  
11 possession, custody, or control regarding every licensee for which  
12 the board licenses:

13     (a) With regard to the status of every license, whether or not  
14 the licensee or former licensee is in good standing, subject to a  
15 temporary restraining order, subject to an interim suspension  
16 order, subject to a restriction or cease practice ordered pursuant  
17 to Section 23 of the Penal Code, or subject to any of the  
18 enforcement actions described in Section 803.1.

19     (b) With regard to prior discipline of a licensee, whether or not  
20 the licensee or former licensee has been subject to discipline by  
21 the board or by the board of another state or jurisdiction, as  
22 described in Section 803.1.

23     (c) Any felony conviction of a licensee reported to the board.

24     (d) All current accusations filed by the Attorney General,  
25 including those accusations that are on appeal. For purposes of  
26 this paragraph, "current accusation" means an accusation that  
27 has not been dismissed, withdrawn, or settled, and has not been  
28 finally decided upon by an administrative law judge and the board  
29 unless an appeal of that decision is pending.

30     (e) Any malpractice judgment or arbitration award imposed  
31 against a licensee and reported to the board.

32     (f) Any hospital disciplinary action imposed against a licensee  
33 that resulted in the termination or revocation of a licensee's  
34 hospital staff privileges for a medical disciplinary cause or reason  
35 pursuant to Section 4990.50 or 805.

36     (g) Any misdemeanor conviction of a licensee that results in a  
37 disciplinary action or an accusation that is not subsequently  
38 withdrawn or dismissed.

39     (h) Appropriate disclaimers and explanatory statements to  
40 accompany the above information, including an explanation of

1 *what types of information are not disclosed. These disclaimers*  
2 *and statements shall be developed by the board and shall be*  
3 *adopted by regulation.*

4 *(i) The information provided on the Internet shall be in*  
5 *accordance with the California Public Records Act (Chapter 3.5*  
6 *(commencing with Section 6250) of Division 7 of Title 1 of the*  
7 *Government Code) and the Information Practices Act of 1977*  
8 *(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4*  
9 *of Division 3 of the Civil Code) and shall comply with the*  
10 *Department of Consumer Affairs Guidelines for Access to Public*  
11 *Records.*

12 *(j) Information provided on the Internet may not include*  
13 *personal information, unless otherwise provided pursuant to this*  
14 *chapter, including the home telephone number, date of birth, or*  
15 *social security number. The information may not include the*  
16 *licensee's address, but may include the city and county of the*  
17 *licensee's address of record.*

18 *SEC. 187. Section 4990.53 is added to the Business and*  
19 *Professions Code, to read:*

20 *4990.53. (a) Unless otherwise provided, if a licensee possesses*  
21 *a license or is otherwise authorized to practice in any state other*  
22 *than California or by any agency of the federal government and*  
23 *that license or authority is suspended or revoked outright, the*  
24 *California license of the licensee shall be suspended automatically*  
25 *for the duration of the suspension or revocation, unless terminated*  
26 *or rescinded as provided in subdivision (c). The board shall notify*  
27 *the licensee of the license suspension and of his or her right to*  
28 *have the issue of penalty heard as provided in this section.*

29 *(b) Upon its own motion or for good cause shown, the board*  
30 *may decline to impose or may set aside the suspension when it*  
31 *appears to be in the interest of justice to do so, with due regard*  
32 *to maintaining the integrity of, and confidence in, the specific*  
33 *healing art.*

34 *(c) The issue of penalty shall be heard by an administrative law*  
35 *judge sitting alone or with a panel of the board, in the discretion*  
36 *of the board. A licensee may request a hearing on the penalty and*  
37 *that hearing shall be held within 90 days from the date of the*  
38 *request. If the order suspending or revoking the license or authority*  
39 *to practice is overturned on appeal, any discipline ordered*  
40 *pursuant to this section shall automatically cease. Upon a showing*

1 to the administrative law judge or panel by the licensee that the  
2 out-of-state action is not a basis for discipline in California, the  
3 suspension shall be rescinded. If an accusation for permanent  
4 discipline is not filed within 90 days of the suspension imposed  
5 pursuant to this section, the suspension shall automatically  
6 terminate.

7 (d) The record of the proceedings that resulted in the suspension  
8 or revocation of the licensee's out-of-state license or authority to  
9 practice, including a transcript of the testimony therein, may be  
10 received in evidence.

11 (e) This section shall not apply to a licensee who maintains his  
12 or her primary practice in California, as evidenced by having  
13 maintained a practice in this state for not less than one year  
14 immediately preceding the date of suspension or revocation.  
15 Nothing in this section shall preclude a licensee's license from  
16 being suspended pursuant to any other provision of law.

17 (f) This section shall not apply to a licensee whose license has  
18 been surrendered, whose only discipline is a medical staff  
19 disciplinary action at a federal hospital and not for medical  
20 disciplinary cause or reason as that term is defined in Section 805,  
21 or whose revocation or suspension has been stayed, even if the  
22 licensee remains subject to terms of probation or other discipline.

23 (g) This section shall not apply to a suspension or revocation  
24 imposed by a state that is based solely on the prior discipline of  
25 the licensee by another state.

26 (h) The other provisions of this article setting forth a procedure  
27 for the suspension or revocation of a licensee's license or  
28 certificate shall not apply to summary suspensions issued pursuant  
29 to this section. If a summary suspension has been issued pursuant  
30 to this section, the licensee may request that the hearing on the  
31 penalty conducted pursuant to subdivision (c) be held at the same  
32 time as a hearing on the accusation.

33 (i) A board that complies with Section 2310 shall not be subject  
34 to the requirements of this section.

35 SEC. 188. Section 4992.33 of the Business and Professions  
36 Code is amended to read:

37 4992.33. (a) The board shall revoke any license issued under  
38 this chapter upon a decision made in accordance with the  
39 procedures set forth in Chapter 5 (commencing with Section 11500)  
40 of Part 1 of Division 3 of Title 2 of the Government Code, that



contains any finding of fact that the licensee or registrant engaged in any act of sexual contact, as defined in Section 729, when that act is with a patient, or with a former patient when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.

*(b) Except as otherwise provided, any proposed decision or decision issued under this chapter in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee has committed a sex offense, shall contain an order revoking the license. The proposed decision or decision shall not contain any order staying the revocation of the licensee.*

*(c) As used in this section, the term sex offense shall mean any of the following:*

*(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.*

*(2) Any offense described in Section 243.4(a)–(d), 261.5, 313.1, or 647(a) or (d) of the Penal Code or a finding that a person committed such an act.*

*(3) Any attempt to commit any of the offenses specified in this section.*

*(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.*

**SEC. 189.** *Section 12529.8 is added to the Government Code, to read:*

*12529.8. (a) Any healing arts board described in Division 2 (commencing with Section 500) of the Business and Professions Code may utilize the model prescribed in Sections 12529 to 12529.6, inclusive, for the investigation and prosecution of some or all of its enforcement actions and may utilize the services of the Department of Justice Health Quality Enforcement Section or the licensing section. If a board elects to proceed pursuant to this section and utilizes the services of the licensing section, the Department of Justice shall assign attorneys to work on location*

1 at the licensing unit of the Division of Investigation of the  
2 Department of Consumer Affairs.

3 (b) The report requirements contained in Section 12529.7 shall  
4 apply to any healing arts board that utilizes those provisions for  
5 enforcement.

6 (c) This section shall not apply to any healing arts board listed  
7 in subdivision (a) of Section 12529.

8 SEC. 190. (a) It is the intent of the Legislature that the  
9 Department of Consumer Affairs shall, on or before December  
10 31, 2012, establish an enterprise information technology system  
11 necessary to electronically create and update healing arts license  
12 information, track enforcement cases, and allocate enforcement  
13 efforts pertaining to healing arts licensees. The Legislature intends  
14 the system to be designed as an integrated system to support all  
15 business automation requirements of the department's licensing  
16 and enforcement functions.

17 (b) The Legislature also intends the department to enter into  
18 contracts for telecommunication, programming, data analysis,  
19 data processing, and other services necessary to develop, operate,  
20 and maintain the enterprise information technology system.

21 SEC. 191. No reimbursement is required by this act pursuant  
22 to Section 6 of Article XIII B of the California Constitution for  
23 certain costs that may be incurred by a local agency or school  
24 district because, in that regard, this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section 17556 of  
27 the Government Code, or changes the definition of a crime within  
28 the meaning of Section 6 of Article XIII B of the California  
29 Constitution.

30 However, if the Commission on State Mandates determines that  
31 this act contains other costs mandated by the state, reimbursement  
32 to local agencies and school districts for those costs shall be made  
33 pursuant to Part 7 (commencing with Section 17500) of Division  
34 4 of Title 2 of the Government Code.

35 SECTION 1. ~~Section 1623 is added to the Business and~~  
36 ~~Professions Code, to read:~~

37 ~~1623. (a) Notwithstanding any other provision of law, the~~  
38 ~~board may contract with a collection agency for the purpose of~~  
39 ~~collecting outstanding fees, fines, or cost recovery amounts from~~  
40 ~~any person who owes that money to the board, and, for those~~

1 ~~purposes, may provide to the collection agency the personal~~  
2 ~~information of that person, including his or her birth date, telephone~~  
3 ~~number, and social security number. The contractual agreement~~  
4 ~~shall provide that the collection agency may use or release personal~~  
5 ~~information only as authorized by the contract, and shall provide~~  
6 ~~safeguards to ensure that the personal information is protected~~  
7 ~~from unauthorized disclosure. The contractual agreement shall~~  
8 ~~hold the collection agency liable for the unauthorized use or~~  
9 ~~disclosure of personal information received or collected under this~~  
10 ~~section.~~

11 ~~(b) The board shall not use a collection agency to recover~~  
12 ~~outstanding fees, fines, or cost recovery amounts until the person~~  
13 ~~has exhausted all appeals and the decision is final.~~

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